

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 71 of 1992

Srikant Pandey ..... Applicant

Versus

Union of India and Others ..... Respondents

CORAM:

Hon<sup>ble</sup> Justice U.C. Srivastava, V.C

Hon<sup>ble</sup> Mr. K. Chayya, Member(A)

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The pleadings are complete, the case is being disposed of finally. The applicant was working as Extra Departmental Branch Post Master at Mirzabad Mania, district Ghazipur. One Jangi Ram, Asstt. Teacher, Basic Primary School lodged a complaint to the Sub Post Master regarding non payment of maturity value of R.D. Account after completion of five years. The Sub postmaster handed over the complaint to S.D.I, Mohammadabad Yusufpur on 4.1.90 who happened to be there on route to some other post offices. Since the depositor had alleged non-payment of his R.D. Account, the S.D.I(P) apprehended misappropriation of the value and rushed up to Mirzabad Mania and enquired into the case and got recorded the statement of Jangi Ram depositor which revealed that the

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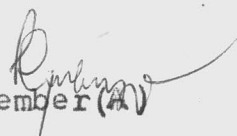
maturity value of Rs.807.60p was shown to be withdrawn on 6.12.1989 and the account was closed. The said complainant Jangi Ram denied the payment of Rs.807.60p and he also denied his signature on the paid voucher(SB-7) which was found subsequently that the Extra Departmental Branch Post Master Mirzabad Mania voluntarily credited Rs.807.60p under the head of unclassified receipt on 4.1.90 which clearly shows that the amount was not paid to the depositor and was misappropriated by the applicant.

2. A charge-sheet was served upon him and an Enquiry officer was appointed. On completion of enquiries the Enquiry officer submitted his report to the Disciplinary Authority, exonerated the applicant, but the applicant was given copy of the report and asked to file representation. The applicant took time for the same but he never filed the same. The Disciplinary Authority <sup>eed</sup>disagreed with the finding of the Enquiry report, held the applicant guilty and passed the removal order. The applicant filed the departmental appeal and the said appeal was rejected, thereafter he has approached this Tribunal.

3. This application deserves to be allowed on the simple ground that ofcourse the disciplinary authority ~~was disagreed~~ with the finding recorded by the Enquiry Officer~~x~~, and that

show cause notice is a must to meet the requirement of principle of natural justice, but the applicant was not apprised of the reason as to on which ground the Disciplinary Authority disagreed with the finding of the Enquiry Officer and was not given any opportunity to make representation against the same.

4. In this connection, a reference is made in the case of 'Narayanji Misra Vs. State of Orissa 1969 S.L.R, pg. 657. Accordingly, this application also deserves to be allowed. The removal order dated 31.12.90/15.1.91 and the appellate order dated 25.9.91 are quashed. However, it is open for the Disciplinary Authority to hold an enquiry after assigning the reasons of disagreement with the finding of the enquiry report and after giving an opportunity to the applicant to make representation. Let these proceedings be concluded ~~within~~ within a period of three months. As the applicant will be deemed to be in service and whether he will be entitled to salary or not will follow the proceedings which will be taken against the applicant hereinafter. No order as to the costs.

  
Member (A)

  
Vice Chairman

Dated: 11th February: 1993

(Uv)