

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration O.A. No. 816 of 1992

Vishnu Deo Applicant.

Versus

Union of India

and others ... Respondents.

...

Hon Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. V.K. Seth. Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was working as Extra Departmental Branch Post Master Tandwajalal (Deoria) District Faizabad. According to the applicant, there were two charges against him (a) for keeping the cash short on two occasions i.e. on 8.1.1987 and on 14.1.1987. (b) For retaining the cash in excess of what was warranted by the liabilities in hand on 15 occasions during the period from 1.12.1986 to 4.12.1986 and from 8.12.1986 to 19.12.1986. According to the applicant, from the statement it is also clear that the shortage in cash which was noticed on 14.1.1987 was replenished on 15.1.1987 while that noticed on 8.1.1987 was replenished on 19.1.1987. An enquiry officer was appointed and the enquiry officer after holding the enquiry came to the conclusion that the charges against the applicant were not proved but the disciplinary authority disagrees with the finding of the enquiry officer and held that the charges against the applicant were proved and consequently, the applicant was removed from service. On behalf of the applicant it was contended that reliance on an uncrossed and unconfirmed statement recorded under duress is not just and proper. The

The applicant was also denied the opportunity for defence. He had requested for production of diary of the Overseer for 8.1.1987 at the time of Departmental Enquiry, but the same was not done. Rule 15(2) of CCS (CCA) Rules clearly lays down three statutory obligations upon the Disciplinary Authority when he expresses disagreement with the findings of enquiry officer which are ;

- (a) To lay down reasons for disagreement;
- (b) To lay down his own findings &
- (c) To endorse that the evidences on record were sufficient for the purposes of arriving at the finding of guilt.

2. Thus, the grievance of the applicant is that when the enquiry officer came to the conclusion that the charges against the applicant were not proved, the disciplinary authority, should give reasons for his disagreement and opportunity to the applicant to defend himself, but the same has not been done in this case, as such, it is in violation of the principle of natural justice.

3. Accordingly, in view of the facts that the principle of natural justice has been violated in this case as the applicant has not been given an opportunity to defend himself, the order passed by the disciplinary authority cannot be sustained. Accordingly, the order dated 30.12.1987 is quashed. However, it will be open for the disciplinary authority to give an opportunity to the applicant to defend himself and to give reasons for his disagreement and from the enquiry officer's report, ~~then~~ thereafter,

to proceed with the matter in accordance with law. As a matter is very old, it is expected, that the disciplinary authority will decide the case within a period of 3 month. from the date of communication of this order. The application is disposed of with the above terms. No order as to the costs.

W. L.
Member(A)

W.
Vice-Chairman

Dated: 15.4.1993

(n. u.)