

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 29th day of August, 2000

Original Application No.850 of 1992

District : Kanpur

CORAM :-

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiquddin, J.M.

Uma Kant Misra S/o Sri Sheo Kant Misra,

Ex Postman, Fatehpur Sikri,

P.O. Agra, at present resideint

at 13/41-A, Parmath, Kanpur.

(Sri Om Prakash Singh/Sri Vijay Bahadur, Advocates)

..... .Applicant

Versus

1. Union of India through Secretary,

Ministry of Telecommunication,

New Delhi.

2. Post Master General, Kanpur.

3. Senior Superintendent of Post Offices,

Agra Division, Agra.

(Km. Sadhna Srivastava, Advocate)

..... .Respondents

O R D E R (O\_r\_a\_l)

By Hon'ble Mr. Rafiquddin, J.M.

The applicant, who was at the relevant time posted as Post Master, Fatehpur Sikri, has been removed from service wide punishment order dated 31-3-1989 passed by the disciplinary authority, namely, by Senior Superintendent of Post Offices, Agra Division, Agra, respondent no.3 on the basis of the report submitted by the Inquiry Officer dated 27-2-1989 submitted after

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departmental enquiry conducted under CCS(CCA) Rules.

2. The applicant was proceeded under Rule 14 CCS(CCA) Rules and he was suspended on 24-2-1988. The charge sheet dated 26-4-1988 was served on him under which it was alleged that the applicant while working as Postman, Fatehpur Sikri Post Office on 9-3-1988, returned the paid vouchers of four MOs, details whereof are mentioned in the charge sheet, showing payment thereof having been made to the payees. It was, however, found that the payees denied <sup>having</sup> ~~to have~~ received the amount of the MOs. in question. It was also alleged that the applicant forged the signatures of the payees and misappropriated the amount of the aforesaid MOs which come to the tune of Rs.223/-.

3. An enquiry was conducted and during the enquiry the payees of the aforesaid MOs were examined who denied to have signed the MO Forms and having received the amount of MOs on 9-3-1988. It appears that the applicant did not participate in the enquiry despite information having been sent to him by registered post. The Inquiry Officer vide his order dated 27-2-1989 on the charges levelled against him found the same proved. The disciplinary authority on consideration of the enquiry report passed the impugned order of punishment.

4. The applicant filed an Appeal on 3-10-1989 to the Director Postal Services, Kanpur. However, the Appeal was rejected vide order dated 9-3-1990. Thereafter, the applicant submitted a petition dated 30-4-1990 to the Chief Post Master General, Lucknow. The said petition of the applicant was also rejected by the Member (P), Postal Services, Board, New Delhi vide order dated 19-2-1992. The applicant has by means

of this OA challenged the punishment order, the order of the appellate authority and the order of the revisional authority.

5. According to the applicant, since the charge sheet was in English language, he could not understand its contents. The disciplinary authority did not consider the fact that the applicant was ill at Kanpur and hence he was not in a position to attend the enquiry. The applicant has also claimed that he was not paid subsistence allowance, travelling allowance and as such he has been denied the reasonable opportunity to defend himself. The applicant was also not provided defence assistance nominated by him and the copy of the enquiry report was also not provided to the applicant. Therefore, the removal order and the order of the appellate authority are illegal and vitiated in law. The applicant also states that since the Inquiry Officer was directly subordinate to the disciplinary authority, the appointment of the Inquiry Officer was contrary to Rules and the enquiry report is not fair and impartial. The applicant also has contended that the punishment order has been passed by the Senior Superintendent of Post Offices, who was also the appellate authority of the applicant at the relevant time and the proceedings are vitiated in law.

6. We have heard counsel for the applicant. Mr. Sadhna Srivastava, counsel for the respondents was also heard. We have also perused the record carefully.

7. It is not in dispute in the present case that the departmental proceedings against the applicant has been taken ex parte. It has also been contended by the learned counsel for the respondents that the applicant

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has ~~been~~ denied the opportunity himself. ~~However~~, we find from the perusal of the record that the applicant was provided sufficient opportunity to defend himself because admittedly the charge sheet was duly received by the applicant. It is the case of the applicant that during the enquiry he was ill at Kanpur. However, we find that there is no evidence to show that the applicant ever sought permission of the authority to leave Agra or submitted any application seeking sanction of medical leave etc. The case of the respondents is that he remained absent unauthorisedly, never took permission to leave Agra, where all sort of medical facilities are available. It has been contended by the learned counsel for the applicant that the applicant was not allowed the assistance of one Sri RS Sharma, <sup>of</sup> Kanpur. It is not understood as to why this defence assistance of a person who was posted at Kanpur was required, whereas the enquiry was conducted at Agra where he was posted. It appears that the applicant. It appears that the <sup>himself</sup> applicant made an attempt to delay the disciplinary proceedings by seeking assistance of an employee who was posted far away <sup>at</sup> from Kanpur.

8. Learned counsel for the applicant has also contended that Smt. Neelam Srivastava, Director Postal Services was already biased against the applicant because the applicant had made certain complaints against her prior to the present OA. The applicant has, however, not impleaded Smt. Neelam Srivastava as a party, in the <sup>in personal</sup> present capacity. Therefore, the plea of bias is misplaced and cannot be raised. The contention of the applicant that the appellate order having been passed by the Director Postal Services, Kanpur is without

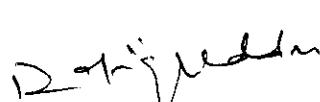
jurisdiction because at the relevant time the applicant was serving ~~in~~ Agra. It has, however, been pointed out by the learned counsel for the respondents that when the impugned appellate order was passed, Agra was within the jurisdiction of Director Postal Services, Kanpur and the same was bifurcated w.e.f. 13-3-1991. There is no evidence contrary to this statement on record. Therefore, the Director postal Services, Kanpur had jurisdiction to pass the appellate order.

9. It has been vehemently alleged by the learned counsel for the applicant that even the copy of the enquiry report was not provided to the applicant before imposing the impugned punishment order. On this point learned counsel for the respondents has referred to the case reported in 1993 SCC (L&S) 1184 MD ECIL & anr vs. B.Karunakar & anr, in which the Apex Court has clarified that the law laid down in Ramjan Khan's case for providing copy of the enquiry report before imposing punishment is only applicable after the orders passed on 20-11-1990. However, in the instant case, we find that the impugned order has been passed on 31-3-1989. Thus, it is not mandatory on the part of the disciplinary authority to provide the copy of the enquiry report to the applicant and the punishment order cannot be quashed on this ground.

10. We are, therefore, satisfied that in the present case enquiry has been properly conducted by the authorities. The appellate authority has also rejected the appeal by passing a speaking order. We therefore, do not find any justification to interfere with the finding of the Inquiry Officer/disciplinary authority.

10. Lastly, learned counsel for the applicant has urged that considering the nature of allegations that only a small amount of Rs.223/- has been misappropriated by the applicant, the punishment of removal appears to be disproportionate. Therefore, a lenient view regarding the punishment should have been taken by the authorities. On this point, it is sufficient to state that this Tribunal is not an appellate authority regarding disciplinary proceedings and cannot interfere or pass any order regarding the quantum of punishment imposed by the authority concerned.

11. In view of above, we do not find any merit in the OA. The OA is, therefore, dismissed with no order as to costs.

  
Member (J)

  
Member (A)

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