

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH
ALLAHABAD

Allahabad this the 17th day of January, 1997.

CORAM : HON. MR. S. DAS GUPTA, MEMBER (A)
HON. MR. T. L. VERMA, MEMBER (J)

ORIGINAL APPLICATION NO. 1237 of 1992.

M. L. Arya s/o. Shukh Basi Lal,
aged about 52 years, r/o. 239
Mahabir Nagar, Bharthana, District
Etawah. Applicant
(THROUGH COUNSEL SRI RAKESH VERMA)

Versus

1. Superintendent of Post Offices,
Etawah Division, Etawah.
2. Director, Postal Services, Agra
Region, Agra in the office of
P.M.O. Agra.
3. Union of India through Secretary Ministry
of Communication, Govt. of India, New Delhi.

..... Respondents.

(THROUGH COUNSEL KM. SADHNA SRIVASTAVA)

ORDER

(By Hon. Mr. S. Das Gupta, Member-A)

This application has been filed challenging
the order dated 18.11.1991 by which the penalty of
stoppage of three increments with cumulative effect

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was imposed on the applicant. The applicant has sought quashing of the said order alongwith consequential benefits. During the pendency of the application appeal of the applicant was decided and the appellate authority modified the order of penalty to that of stoppage of increment without cumulative effect. The applicant has also challenged the appellate order dated 16.12.1992, through the amendment application.

2. The admitted position is that the applicant was served with a major penalty charge-memo dated 3.12.1990. It was alleged in the charge sheet that while functioning as S.P.M. Satyavadi, he had violated the provisions of Rule 31(2) (ii)(b) of the Post Office Savings Bank Manual(Vol.I) by short crediting Rs. 200/- in the S/B.Account on 13.7.1990 and thereby failed to maintain absolute integrity and devotion to duty. An enquiry was held and the Inquiry Officer came to the conclusion that the applicant was responsible for making incorrect entries relating to the deposit dated 13.7.1990 but, due to non-cooperation of the depositer the applicant could not be held responsible for short crediting of Rs. 200/-. The disciplinary authority, however, dis-agreed with the findings and held that the charge had been fully established and by the impugned order dated 18/19.11.1991, he imposed penalty of stoppage of increment with cumulative effect. The applicant preferred an appeal which was decided during the pendency of this application by the appellate order dated 16.12.1992 moderating the penalty to that of stoppage of increment without cumulative effect.

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3. The order of the disciplinary authority has been challenged on the ground that the Inquiry Officer had rightly came to a conclusion that the charge of less crediting was not proved and that the conclusion arrived at by the disciplinary authority that the charge was proved was not based on the evidence on record but, only on presumption. The further allegation is that Superintendent of Post Offices and other officers of the Postal Department are biased against the applicant on account of his Union activities. A 3rd ground taken is that the order of punishment was violative of provisions of natural justice.

4. The order of appellate authority has been challenged on the ground that such authority overlooked the registered letter sent by the depositer of the Account stating that he had deposited only Rs.300/- and not Rs.500/- as was wrongly entered by the applicant.

5. In the counter-affidavit, filed by the respondents, the circumstances in which the disciplinary proceedings were initiated against the applicant have been explained. It has further been stated that Sri Yash Pal Singh, the depositer did not make any complaint regarding his deposits. The discrepancy had come into knowledge when the Post Master reported the irregularity. It is further stated that said depositer's statement was recorded

on 12.09.1990 during the preliminary inquiry by the Sub-Divisional Inspector (Posts) Etawah and this document was relied upon. The said statement was proved in the inquiry by the person who had recorded the statement. The respondents have denied that there was any bias on their part against the applicant,

6. We heard the learned counsel for both the parties and perused the record carefully.

7. We have seen that the Inquiry Officer had stated in his conclusion that the charge of short-crediting could not be proved due to non-cooperation of the depositor. It appears that the depositer was directed ~~to~~ to appear as witness several times but, he failed to appear and on the other hand he had issued a registered letter by which he denied that he deposited Rs. 500/-. The disciplinary authority however, dis-agreed with the findings of the Inquiry Officer and recorded the reasons for his dis-agreement. In terms of Rule 15 of the CCS(CCA) Rules , the disciplinary authority has every right to dis-agree with the findings of the Inquiry Officer provided he records the reasons for his dis-agreement. As the disciplinary authority has recorded detailed reasons for his dis-agreement, the statutory requirement had been fulfilled. The finding of the disciplinary authority cannot be challenged on the ground that these are not based on any evidence. The jurisdiction of the Tribunal in the matter of disciplinary proceeding is not analogous to appellate jurisdiction.

It cannot re-assess the evidence on record and come to a finding different from the finding of the Inquiry Officer or disciplinary authority unless such findings are wholly perverse on the face of the evidence on record or based on no evidence. We have carefully perused the reasons recorded by the disciplinary authority in the impugned order of penalty. It cannot be said that the reasons given are perverse or the conclusions are based on no evidence. In that view of the matter we see no reason to re-assess the evidence.

8. The other plea alleging bias on the part of the respondents is not tenable as no material has been made available for making any presumption that there was bias on the part of the respondents against the applicant.

9. As regards the plea of natural justice, no factual averment has been made as to the manner in which such principles have been violated. So far as the plea that the appellate authority did not consider the registered letter of the depositor is not tenable. The appellate authority has given detailed reasons in the order and has also moderated the penalty which itself indicates application of mind.

10. In the result, we are of the view that no case has been made out for our interference. The application is therefore, dismissed. Parties to bear their own costs.

(Pandey)

Y. K. Pandey
Member-J

W. C.
Member-A