

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNALALLAHABD BENCH, ALLAHABD.Allahabad this the 30th day of August of 2000.CORAM:-

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S. Biswas, Member (A).

Orginal Application No. 1300 of 1992.Surendra Singh Yadava, S/o Dalip Singh Yadava,
R/o Village Belsadi, Nandganj, Ghazipur.

..... Applicant.

Counsel for the applicant:- Sri S.N. Srivastava.V E R S U S1. Union of India, through the Ministry of
Communication, New Delhi.2. Director Postal Services, Allahabad Region,
Allahabad.3. Senior Superintendent of Post Offices,
Eastern Region, Varanasi.

..... Respondents.

Counsel for the respondents:-Sri A. Sthalekar.Order (Oral)

(Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this application under section 19 of
Administrative Tribunals Act, 1985 applicant has
challanged the order of punishment of removal
dt. 22.01.86 passed against him.

The order confirming punishment, passed by appellate authority dt. 20.05.92 has also been challenged.

2. Facts giving rise to this application are that the applicant was serving as Branch Post Master, Bilsari, Disst. Ghazipur. On enquiry, it was found that he had not distributed the money orders to the claimants and used the amount for his personal benefit. By forged signature amount was withdrawn and it was missappropriated by the applicant. Disciplinary proceedings were initiated against the applicant and memo of charge was served. Applicant submitted his explanation that the enquiry officer has not given opportunity to the applicant and submitted his report on 24.06.85. According to his report only charge No. 3 has been partly proved and for the rest of charges enquiry officer was of opinion that they are not proved. The disciplinary authority however, ~~disagreed~~ with the opinion of the enquiry officer in respect of charges No. 1,2,5 & 6. He agreed with the findings of the enquiry officer with regards to charge Nos. 3 & 4. The disciplinary authority on perusal of the material on record found that charges No. 1, 2, 5,& 6 have been fully proved. On the basis of this finding he passed the order of removal dated 22.01.86. Applicant filed an appeal against the order of punishment. However, the appeal of the applicant was rejected. Appeal was not disposed of on merits, but on the ground that memo of appeal was not ~~received~~ ^{signed} by the applicant.

3. Aggrieved by the aforesaid orders applicant filed O.A. 673/87 before this Tribunal. The application was allowed and order dt.03.07.86 of the appellate authority was quashed and it was directed to decide the appeal of the applicant on merits after hearing the applicant. The appellate authority in pursuance of the aforesaid order has dismissed the appeal by order dt. 28.05.92,

Aggrieved by which the present application has been filed by the applicant.

4. We have heard Sri S.N.Srivastava, learned counsel for the applicant and Sri Amit Sthalekar, learned counsel appearing for the respondents. We have also perused the record pertaining to the appeal and disciplinary proceedings which were placed before us by Sri Amit Sthalekar.

5. Learned counsel for the applicant has submitted that the disciplinary authority disagreed with the report of enquiry officer. It was necessary for him to give opportunity for hearing to the applicant but no opportunity was provided and thus the enquiry proceedings were in violation of principles of natural justice and liable to be quashed.

6. We have examined this question carefully with the help of the record of proceedings placed before us. It appears that applicant failed to raise this question before the appellate authority in the manner in which it has been argued before us.

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There is a clear observation in the order of the appellate authority that applicant appeared ⁱⁿ person before him and filed the application dt.04.05.92 which contained his submissions in respect of his appeal. Appellate authority examined the questions raised therein. However, it was not stated that the disciplinary authority passed the order of punishment dated 22.01.86 without giving opportunity of hearing. In the order of the appellate authority it has also been mentioned that application dt.04.05.82 contained the similar grounds as mentioned in memo of appeal. We have examined the memo of appeal also thoroughly but we do not find any specific ground about denial of opportunity by the disciplinary authority. The applicant was served with the report of enquiry officer and it was open to him to submit his explanation, as atleast one of the charges i.e. charge No.3 was found partly proved against applicant. In the facts and circumstances it is difficult to accept that applicant was not provided opportunity by the disciplinary authority . For the reasons mentioned above we do not find any substance in the submissions of the learned counsel for the applicant.

7. Learned counsel for the applicant has also submitted that the punishment awarded is excessive and not commensurate to the charges found proved against the applicant. Learned counsel for the applicant has submitted that instead of order of removal the applicant may be awarded

punishment of compulsory retirement. We have considered this aspect of the matter also but we do not think that the punishment awarded is in any way excessive.

8. The charges levelled against the applicant were serious and view taken by both the authorities for awarding the punishment of removal in our opinion is justified. Application is devoid of any merit and accordingly dismissed.

9. There will be no order as to costs.

S. Biju
Member (A)

R
Vice-Chairman.

/Anand/