

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 8TH DAY OF NOVEMBER, 2000

Original Application No.361 of 1993

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Jagannath Prasad Tripathi, S/o
Shri Udai Narain Tripathi, a/a 30 years
C/o Shri Rajni Kant Tripathi
39-A, Ganga Ganj, Allahabad.

... Applicant

(By Adv: Shri R.K.Jain)

Versus

1. Superintendent Post Offices,
Gonda
2. Union of India, through Secretary,
Ministry of Communications,
New Delhi.

... Respondents

(By Adv: Shri C.S.Singh)

O R D E R (Oral)

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

This application u/s 19 of the A.T.Act 1985 has been filed challenging the order dated 30.4.1992 passed by the Superintendent of Post Offices in exercise of powers of review under Rule 16 of the EDA (Conduct & Service) Rules, 1964.

The facts in short giving rise to this application are that applicant Jagannath Prasad Tripathi was working as Extra Departmental Delivery Agent in Inarainpur Indha Post office. On 19.2.1991 he filled pay-in-slip for deposit of Rs.135/- in his Saving Bank A/c No.11511590 and handed over it to the EDBPM. The EDBPM made entries of Rs.135/- in all the records including his Pass Book. The B.O. bag was closed by the applicant in the evening of the same day. It is alleged that while closing the bag he added figures 10 before the amount 135 and word ten thousand before one hundred thirty five in pay-in-slip. For the aforesaid misconduct disciplinary proceedings were initiated after



serving a charge. The Enquiry Officer however, found that the charge is not proved against the applicant. Disciplinary Authority agreed with the findings of the Enquiry officer and exonerated the applicant vide order dated 21.10.1991. The Reviewing Authority, however, disagreed with the conclusion of the Disciplinary Authority and served a show cause notice to the applicant as to why he may not be punished for the misconduct. The memo containing points of disagreement was also served. Applicant filed his objection. However, the Reviewing Authority vide order dated 30.4.1992 under Rule 16 of the said Rules passed order of the removal from service. Aggrieved by which this application has been filed. Shri Jain has submitted that the Reviewing Authority has laid much emphasis on the question when the B.O.bag was sealed and has also pointed out the contradictions in the statement of the witnesses. However, in our opinion the point loses its importance in view of the fact that the applicant admitted that he deposited 10,135/- and he also admitted that the amount was mentioned in figures and in words by his own handwriting. This fact whether the pay-in-slip initially contained figure 135 and also in words only mentioned one hundred and thirty five only, ~~and~~ from the very beginning the amount in figure as well as in words was shown as 10,135/- ^{if required to be determined,} For this purpose we have perused the pay-in-slip which has been filed as Annexure A5). The bare perusal of the pay-in-slip leaves no doubt that figure 10 thousand both the numerical as well as in words was added subsequently. The Reviewing Authority has given reasons in detail for not accepting the defence of the applicant. We find no error in the order.

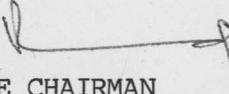
The next submission of the learned counsel for the applicant is that the Reviewing Authority could not impose penalty under Rule 16 and also could not reopen the proceedings before the expiry of the period of appeal. We find no force in both these contentions. In the present case there was no question of filing any appeal as the applicant was exonerated. Rule 10 contains provision for appeal under which only the delinquent employee if punished may file appeal. In the circumstances, the provision contained in first proviso to Rule 16, that case shall not be reopened before the expiry of the time limit of three months

prescribed for preferring an appeal could not be applicable as there was no question of filing an appeal. So far as the powers of the Reviewing Authority is concerned, clauses (A) & (B) are separate and independent. Under Clause 'B' ~~contentious~~ wide powers and the Reviewing Authority may pass such orders as it deems fit which in our opinion, ~~so~~ includes the power to punish. For the aforesaid conclusion we find support from the second proviso of the Rule which requires that the Reviewing Authority shall provide reasonable opportunity of making representation to the employee before passing order imposing or enhancing any penalty.

The learned counsel for the applicant has also assailed the finding of the Reviewing Authority in respect of the second charge. However, as the punishment of removal awarded can be sustained from the first charge which ~~can be~~ ^{has been} fully established, ^{it} does not appear necessary for us to go into the second charge. Thus, the legal challenge also have no substance. The application has no merit and accordingly dismissed. No order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 08.11.2000

Uv/