

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 29th day of March 2001.

Original Application no. 419 of 1993.

Hon'ble Mr. Rafiq Uddin, Member (J)

Hon'ble Maj Gen K.K. Srivastava Member (A)

Paramatama Ram,
S/o Sri Pitamber,
R/o Gram and Post Aunta, Meza Road,
ALLAHABAD.

... Applicant

C/A Sri R.C. Sinha

Versus

1. The Union of India through,
Secretary Ministry of Postal,
Department, New Delhi.
2. The Director of Postal Services,
Distt. Allahabad.
3. Senior Supdt. Post Offices,
Head Post Office,
ALLAHABAD.
4. Sub Divisional Inspector,
Meza Allahabad.
5. Branch Post Master,
Kathaully Meza Road,
Allahabad.

... Respondents.

C/Rs Sri D.S. Shukla

...2/-

ORDER

Hon'ble Maj Gen KK Srivastava, Member-A

By means of this O.A. the applicant has challenged the punishment order dated 31.10.1981/ 11.11.1989 by which he was dismissed from service, order dated 10.07.1990 by which the punishment was converted from dismissal to removal and order dated 23.04.1992 through which the revision of the applicant was dismissed.

2. The brief facts of the case are that the applicant was appointed as EDDA at Branch Office Kathauli, Meja Road, Allahabad, on 23.02.1978. He states that he fell ill on 16.07.1978 and applied for leave upto 01.08.1985 and one Shri Shyam Lal Kumar was appointed as a substitute in his place on his responsibility. He sent several applications to Branch Post Master (BPM) and Sub Divisional Inspector (SDI) for extension of leave under U.P.C. When he reported back for duty on 30.11.1987, he was not given the charge. He made representation to SDI, Meja Road, Allahabad, on the same day. In absence of any reply from SDI, he made representation to Senior Superintendent of Post Offices (SSPOs) on 26.12.1987 under registered post. Thereafter, he made representation on 05.08.1968 to the Director Postal Services (DPS).

The applicant was served with charge sheet

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on 25.01.1988 under rule 8 of EDA (C&S) Rules 1964 which he received on 25.02.1988.

Enquiry was conducted and the Enquiry report was submitted on 20.04.1989 holding that the applicant violated Rule 5 of EDS (C&S) Rules 1964 and circular no. 33 dated 24.02.1970 and letter no. 43/63/67-Pen dated 27.05.1970 and letter no. 5-5/72 ED Cell dated 18.08.1973 of Director General (Posts) as applicant remained absent since 06.07.1985 for more than 180 days. The applicant was dismissed from service by S.D.I. vide order dated 31.10.1989/11.11.1989 (Annexure 13).

The applicant appealed on 01.01.1990 against the dismissal order on the ground of illness and treatment from 01.09.1986 to 30.11.1987. The SSPO (respondent no. 3) modified the punishment of dismissal to that of removal vide order dated 10.07.1990 (Annexure 16). The applicant filed petition before Respondent no. 2 on 17.01.1992, for revision of punishment order passed by Respondent no. 3, but Respondent no. 3 rejected the same vide order dated 23.07.1992 (Annexure 18).

3. We have heard the learned counsel for the contesting parties and perused the records.

4. The learned counsel for the appellant argued on the following grounds :-

i. The removal on the basis of absence for more than

...4/-

180 days is too excessive specially when the applicant had informed the respondents nos 3 and 4 through several applications sent under UPC. In this connection he relied on the Apex Court Judgment in Union of India and Others Vs. Giriraj Sharma, AIR 1994 SC 215, in which the Hon'ble Supreme Court has affirmed the judgment of Rajasthan High Court, that punishment of dismissal on the ground of overstaying leave period is harsh and disproportionate.

ii. As the charge sheet was issued under Rule 8 of EDA (C&S) Rules, 1964 the enquiry held under Rule 5 of the said rules is incorrect.

5. The learned counsel for the respondents has put forth the following arguments :-

i. That the applicant did not work from 7th July 1985 neither as Extra Departmental Runner nor as outsider at any place including the Head Post Office, Allahabad and he absented himself without any information or prior permission.

ii. Enquiry was conducted according to the principle of natural justice and rules in this regard.

iii. Submitted that the applicant should have sent his application for extension of leave through registered post or through such means that the receipt of application was ensured. Posting of letters under Certificate of Posting (UPC) does not inspire confidence as per the Apex Court judgment in Gadakh Yashwantrao Kankarrao

Vs. E.V. alias Balasaheb Vikhe Patil and others,
AIR 1994 SC 678.

"Post Office Rules (1993), R. 195 - Certificate of Posting -- Is easy to procure -- Does not inspire confidence."

6. We have considered the various arguments placed before us by the learned counsel for the parties and perused the records and our findings are :-

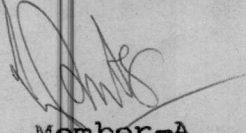
a. the applicant remained absent without any information and prior permission for more than 180 days. The applicant should have ensured that applications for extension of leave were sent under Regd. Cover as he has done in case of fitness certificate.

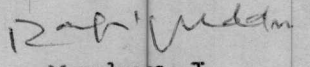
b. As regards the excessiveness of the punishment, the Appellate Authority after due consideration took a lenient view and converted the punishment of 'Dismissal' into 'Removal'.

c. The respondents followed the laid down procedure.

7. In view of the facts and circumstances we find that there is no procedural irregularity and principles of natural justice have all along been followed. We, do not find any merit in the O.A. hence the relief sought for cannot be granted. The OA is, therefore, dismissed.

8. There shall be no order as to costs.


Member-A


Member-J