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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this day 2 Feb of 1995.

ORIGINAL APPLICATION NO. 554 OF 1993.

Kailash Kumar, aged about 35 years,  
S/o Late Sri Rustam Singh,  
R/o Village and Post Sarai,  
Shish Garan, Tahsil Vidhuna,  
District-Etawah.

By Advocate Sri Satish Chaturvedi. .... <sup>A</sup>pplicant.

Versus

1. Post Master General, Agra Region,  
Agra.

2. Director, Postal Service, Agra Region,  
Agra.

3. Superintendent Post Office, Etawah Region,  
Etawah.

..... Respondents.

By Advocate Km. Sadhana Srivastava.

CORAM: Hon'ble Mr. T.L. Verma, MEMBER (J)

Hon'ble Mr. K. Muthukumar, MEMBER (A)

1. The applicant while working as Extra Departmental Branch Post Master at Village Sarai Shish Garan District-Etawah was served with a chargesheet following inspection by the Sub Divisional Inspector of Post Offices. During the inspection, it was found that sum of Rs 374.65/- was found short in the deposit amount in two of the Savings Bank Accounts. The applicant was placed and put off duty and the case was reported to the head office. During

further inquiry and verification of the transaction on certain previous dates, some more cases of misappropriation of the Government money were detected. After due inquiry the charges against the applicant were held to have not been proved by the Inquiry Officer and after consideration of the report representation of the applicant and all relevant records, the disciplinary authority disagreed with the findings of the Inquiry Officer and was awarded the punishment of "dismissal from service" by the impugned order dated 27.2.1990 (Annexure-A-1). His appeal to the next higher authority was rejected. The applicant preferred a review petition to the Post Master General, Agra and on the direction of the Post Master General that the appellate order was not a speaking order, the matter was again remitted to the Appellate Authority, who, after discussing various points raised by the applicant in his appeal passed further orders modifying the punishment order of the Disciplinary Authority to one of "removal from service" (Annexure-A-2).

2. Aggrieved by the above order, the applicant has approached this Tribunal with a prayer to quash the order passed by the Disciplinary Authority namely, the Superintendent of Post Offices and the Appellate Order passed by the Director of Postal Services, Agra, and to reinstate the applicant with all consequential benefits.

3. The main ground of the applicant is that the punishment was imposed on him by the Disciplinary Authority although the charges were held to have not been proved by the Inquiry Officer, according to the Inquiry Report filed with the application as Annexure- 4 and the applicant was not given any opportunity

of hearing when the disciplinary authority disagreed with the findings of the Inquiry Officer before passing the impugned order. The Appellate Order was also passed mechanically without application of mind. The applicant further averred that the order of removal from service is grossly excessive and is not commensurate with the charges levelled against the applicant, although they were not proved in the inquiry.

4. The respondents have resisted the contention of the applicant and have stated that in accordance with the provisions of the Branch office rules, the applicant was required to keep the cash deposit in the Savings Bank but when the inspection was made and the cash was found short, he could not make good the cash within a reasonable time given to him and it was found that the cash was misappropriated from the Savings Banks Account by the applicant. The respondents have also stated that the above fact was also admitted by the applicant in his statement dated 16th June 1988 annexed as Annexure-B,A-2 to the counter affidavit and the applicant has promised to credit the amount. The respondents have also stated that the Disciplinary Authority did not agree with the finding of the Inquiry Officer. They have also averred that in a departmental inquiry the standard of proof required ~~second~~ differs materially from the standard required in a criminal ~~case~~ and in a disciplinary case by the test of preponderance of probability, the Disciplinary Authority may come to the conclusion that the charged Official was guilty of the charges levelled against him. Besides, the Inquiry Officer had also overlooked ~~other~~

certain material documents while conducting the inquiry and the Inquiry Officer himself had admitted that while preparing the inquiry report, he had overlooked the certain relevant documents and for this the Inquiry Officer was also awarded punishment of "censure." Respondents have, therefore, averred that the Disciplinary Authority had rightly disagreed with the findings of the Inquiry Officer on the basis of the misappropriation of cash by the applicant and, therefore, the punishment was quite justified. The punishment was however modified by the Appellate Authority to that of "removal from service".

5. We have heard the rival contentions of the parties and perused the record.

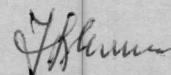
6. We find that the disciplinary proceedings and the inquiry did not suggest that there had been any denial of opportunity or any malafide against the applicant. We find that the Disciplinary Authority while disagreeing with the findings of the Inquiry Officer has given his reasons and justification for his disagreement with the Inquiry Officer and the Inquiry Officer himself had admitted his failure in taking into account certain relevant documents while finalising his Inquiry Report. Besides, there is no requirement under the Rules that the opportunity should be given to the delinquent official, if the disciplinary authority disagrees with the finding of the Inquiry Officer, as contended by the applicant. Further, the applicant has not shown how there had been any malafide

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the action, except / allegation of conspiracy hatched by the Inspector and Gram Pradhan, which is not substantiated by him. In other words, we find that the disciplinary proceedings have not been vitiated in any manner. In disciplinary matters the Court/Tribunal does not sit as a court of appeal nor does it reappraise the evidence and other material, ~~as if it is another court of appeal~~. So long as decision-making process, is not vitiated and is in accordance with the rules and procedure and there is no malafide in the proceedings, the Court or Tribunal does not interfere with the decision of the Disciplinary Authority. This is amply covered by the decision of the Apex Court in Union of India & others Versus Upendra Singh, J.T. 1994 (1) SC 658 and this is the settled law on the subject.

7. In view of the above discussions, we find no merit in the application and the application is, accordingly, dismissed. No order as to costs.

  
MEMBER (A)

  
MEMBER (J)

ALLAHABAD: DATED: 2-29-5

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