

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 24th day of May, 2001.

Original Application No.734 of 1993.CORAM :-Hon'ble Mr. Justice R.R.K. Trivedi, V.C.Hon'ble Maj Gen KK Srivastava, A.M.

Yogendra Singh S/o Sri Amang Pal Singh,  
 Resident of Village & Post-Sarsai Naru,  
 District-Etah.

(Sri Vijay Bahadur, Advocate)

. . . . . Applicant

Versus

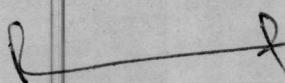
1. Union of India, through Secretary  
 Ministry of Telecommunication,  
 New Delhi.
2. Post Master General, Agra Region, Agra.
3. Superintendent of Post Offices, Etah Division,  
 Etah.
4. Sub Divisional Inspector (SDI) of Post Offices,  
 Kasganj, District Etah.

(Km. Sadhna Srivastava, Advocate)

. . . . . Respondents

O R D E R (O\_r\_a\_l)By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

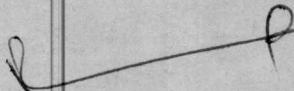
By this OA the applicant has challenged the order dated 30-1-1989 by which he was dismissed from service on conclusion of the disciplinary proceedings. The order is annexed as Annexure-A-1 to the OA. The appeal against the aforesaid order was dismissed on 28-12-1989. The revision was dismissed on 06-2-1991. Aggrieved by these orders the applicant has approached this Tribunal.



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2. The facts in short giving rise to this application was that the applicant Yogendra Singh serving as EDDA in Post Office Sarsai Naru, district Etah. Complaints were received against him that he is not delivering money orders to the actual recipients and by showing fake delivery has embezzled the amount for himself. On enquiry two such cases against the applicant could be detected, which were with regard to MO No.3817 dated 28-1-1987 for Rs.200/- payable to Sri Gyanendra Singh Solanki and MO No.3294 dated 11-3-1987 for Rs.100/- payable to Sri Ram Charan. The applicant was served with memo of charge after enquiry when Sri Gyanendra Singh Solanki and Sri Ram Charan refused the receipt of the amount. Disciplinary authority, Sub Divisional Inspector of Post Offices, held the enquiry and found the charges against the applicant proved. Consequently, he passed order of dismissal from service against the applicant. The appeal was dismissed by the order dated 28-12-1989 and revision was dismissed on 06-2-1991.

3. Sri Vijay Bahadur, learned counsel for the applicant has submitted that enquiry report was not served on the applicant and it vitiated the entire proceeding. In the present case, however, we find that the disciplinary authority Sub Divisional Inspector himself conducted the enquiry and he did not appoint any Inquiry Officer. Otherwise also submission on behalf of the applicant is based on the judgement of the Hon'ble Supreme Court in the case of UOI Vs. Mohd. Ramzan Khan reported in AIR 1991 SC 471. The judgement of the Hon'ble Supreme Court is dated 20-11-1990. However, the Hon'ble Supreme Court by the subsequent judgement in the case of SP Vishwanathan Vs. Union of India and Ors provided that the views expressed in Mohd. Ramzan Khan case shall be applicable prospectively and will not



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affect the enquiries which were completed before 20-11-1990.

4. In view of the aforesaid legal position the submission of the learned counsel for the applicant has no force.

5. The second submission of the learned counsel for the applicant is that no complaint was lodged by the persons who were allegedly deprived of the money under the MDs in question. In absence of the complaints of the beneficiaries the applicant cannot be punished. We have carefully considered this aspect of the case. This is true that no formal complaint was lodged by Sri Gyanendra Singh Solanki and Sri Ram Charan but when the Sub Divisional Inspector made enquiries they specifically denied that any amount was paid to them. It may be that they may not have been aware about the money sent to them by the MDs and there was no question of lodging any complaint in absence of knowledge but such a serious misconduct, in our opinion, ~~not taken notice of~~ <sup>or from any source</sup> may be ~~received~~ by the Department very seriously/other than the beneficiaries of MDs. In our opinion, to restrict ~~Department to take notice~~ <sup>in</sup> ~~in~~ <sup>where</sup> ~~cases~~ <sup>whether</sup> the complaint is lodged by the recipients, would neither be just nor in public interest. It was the result of the prompt enquiry made by the officials of the Postal Deptt. <sup>in our opinion</sup> that this serious misconduct was detected. In <sup>the disciplinary</sup> proceeding against the applicant cannot be termed as bad or suffering from any illegality, on the ground that they were not based on the complaint made by actual beneficiaries.

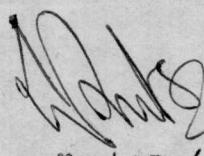
6. Learned counsel for the applicant lastly submitted that the the cases are very very old and the enquiry was started after sufficient long time and on account of delay <sup>or precluded</sup> defence was ~~perished~~. We have examined this aspect of the case also. However, we do not find any merit. Both the

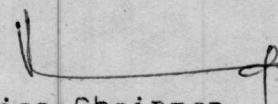
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MUs were of the year, 1987. Proceeding against the applicant was initiated within a period of two years. In the circumstances of this fact, it is difficult to say that there was any delay.

7. For the reasons stated above, we do not find any merit in this case. The DA is accordingly dismissed. There shall be no order as to costs.

 Member (A)

 Vice Chairman

Dube/