

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Dated: Allahabad, this 8th day of November, 2000

Coram: Hon'ble Mr. Rafiq Uddin, JM

Hon'ble Mr. S. Biswas, AM

Original Application No.943 of 1993

Dwijendra Nath Shama,
Ex-E.D. Sub-Postmaster,
Ramzanpur, District Budaun.

..... Applicant

(By Advocate Sri Vivek Srivastava
Sri Vivek Shandilya)

Versus

1. Superintendent of Post Offices, Budaun.
2. Director, Postal Services,
Office of P.M.G., Kanpur.
3. P.M.G., Bareilly.
4. Union of India, through Secretary,
Ministry of Communications,
New Delhi-1.

..... Respondents

(By Sri S.C. Tripathi, counsel for
the Respondents).

O R D E R (Open Court)

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

The applicant, who was at the relevant time working as Extra Departmental Sub-Postmaster (EDSPM), Ramzanpur, district Budaun, was proceeded ~~with~~^R under Rule 8 of E.D. Staff Rules. It was alleged that the applicant did not keep the oblong stamp in his own custody as a result of which bogus money orders were issued. It was specifically stated that bogus CPOs-

R₁

Contd..2

3118 (Ramzanpur) M.O. No.465, dated 10.1.85, M.O. No.484 and 485 dated 18.1.85 each amounting to Rs.1,000/- and X.P. Telegrams to E.D.S.P.M. Ramzanpur were issued on 25.1.85 to withhold the payments of the aforesaid money orders. But, no reply was received by the applicant. The matter was inquired by A.S.P.O. Khiri, who found that bogus money orders amounting to Rs.7,000/- were also paid by the applicant, who was himself preparing these bogus money orders impressing them with his office stamp and sending the same to the office for payment along with high value list by postal service. Out of these transactions, loss of Rs.18,4000/- was noticed, out of which Rs.9,000/- was recovered and Rs.9,4000/- was to be recovered by the D.M. from payees. The Enquiry Officer submitted a report on 30.9.88 and on the basis of findings of the Enquiry Officer, the impugned order was passed, whereby the applicant was removed from service. The applicant submitted an appeal against the punishment order dated 30.9.88 to the Director, Postal Services, O/O P.M.G., U.P. Circle, Kanpur on 3.1.89, which was rejected vide order dated 17.4.89. Thereafter, the applicant also submitted a Review Petition dated 4.4.92 to the P.M.G., Bareilly Region, Bareilly, which was decided by an order dated 14.10.92 and was rejected.

2. By means of this OA, the applicant seeks quashing of the punishment order dated 30.9.88, order dated 17.4.89 passed by the appellate authority and the order dated 14.10.92 passed by the Reviewing Authority. The applicant has challenged the aforesaid orders, mainly on the ground that the real culprit in this case has been examined as prosecution witness and there is no legal, direct and reliable evidence against the applicant. The applicant

Rn

also claims that he was not supplied with additional documents during the course of enquiry and no preliminary enquiry was conducted in the present case. The applicant was also not supplied with a copy of the enquiry report before submitting his defence.

3. We have heard the counsels for the parties and perused the records carefully. It is pertinent to mention at the outset that the scope of judicial review of punishment order ^{or} and the order passed in appeal by this Tribunal is limited. It is only to be seen whether the enquiry was conducted properly by providing the applicant an opportunity to defend himself or not and whether there is some evidence available on the record to prove the allegation against the applicant.

4. In the present case, we find that the departmental proceedings against the applicant were conducted properly after affording proper opportunity to defend himself. During the enquiry, six witnesses were examined against the applicant. The applicant also examined one witness in his defence. The applicant was permitted to cross-examine the witnesses. There is no evidence on record to show that the applicant was not supplied copy of any relevant document. We have also perused the report of the Enquiry Officer and the Enquiry Officer has discussed the evidence in detail and has made his own conclusion on the basis of evidence. Similarly, the appellate authority has also passed a detailed order, while rejecting the appeal of the applicant.

(a)

We, therefore, do not find any justification with ^{to interfere} the findings of the Enquiry Officer and the conclusion ^{formed} ~~found~~ by the disciplinary authority for the reasons given by the appellate authority for rejecting the appeal.

5. The learned counsel for the applicant has, however, urged that since the allegation against the applicant involves loss of Rs.18,400/- only, the punishment is disproportionate to the charge levelled against the applicant. This Tribunal is not an appellate authority to modify the punishment awarded to the applicant. It is only the administrative authority to consider the request of the applicant to modify the punishment. However, in the present case, we find that the applicant has already exhausted the remedy with the administrative authorities. Therefore, we do not find merit in the present O.A. and the O.A. is dismissed. No order as to costs.

A.M.

Rafiqul Hasan
J.M.

Nath/