

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

OA NO.1052/1993

THIS THE 6TH DAY OF FEBRUARY, 2001.

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR.S.DAYAL, MEMBER (A)

Raja Ram, Ex Postman of Agra Fort
Head Post Office,
S/o Shri Hari Ram
R/o Village and Post Office Bhainsol
District Etawah.

....

Applicant

(BY ADVOCATE SHRI LALJI SINHA)

Vs.

1. Union of India through
Secretary,
Government of India
Department of Posts
Ministry of Communications
New Delhi.

2. Member, Postal Services Board,
New Delhi.

3. Director of Postal Services,
Kanpur Region
Kanpur.

4. Senior Superintendent of Post Offices
Agra Division, Agra.

....

Respondents

(BY ADVOCATE MS.SADHNA SRIVASTAVA)

ORDER (ORAL)

JUSTICE ASHOK AGARWAL:

While applicant was employed as a Postman in Beat No.58 of Agra Fort Head Post Office, disciplinary proceedings were conducted against him on the following statement of allegations:-

1. While working in that beat, on 28.1.1982, the applicant was entrusted with a value payable (duplicate) money order No.760 dated 23.6.1981 for Rs.200 issued from Roorkee Post Office for effecting its payment to its ~~above~~ payee, namely, Sri Mohd. Islam, Proprietor of M/s. Foot Style Printing Works Foyntains Agra ~~...~~."

Applicant failed to deliver the aforesaid amount of Rs.200/- to the aforesaid payee.

2. A preliminary enquiry was conducted wherein statements were recorded. This was done behind the back of the applicant. Disciplinary proceedings were thereafter conducted against the applicant by the enquiry officer. In the enquiry,

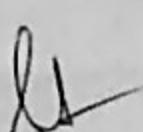
the complainant Mohd. Islam who was the payee was duly examined. He in no uncertain terms admitted to have received payment of the aforesaid amount of Rs.200/- which was the subject matter of the enquiry. Based on the aforesaid evidence, the enquiry officer by his report of ~~07.02.1988~~ ^{19.1.1988} found that the charge levelled against the applicant was not proved. Aforesaid proceedings were thereafter transmitted to the disciplinary authority who by his order of ~~15.02.1988~~ ^{17.2.1988} has purported to disagree with the aforesaid findings of the enquiry officer and has found the applicant guilty of the aforesaid charge and has proceeded to impose a penalty of dismissal from service.

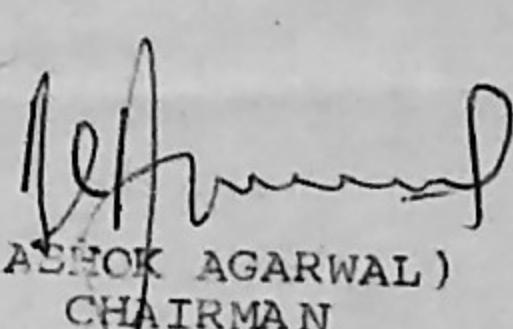
3. Aforesaid order of the disciplinary authority was carried by the applicant ^{an} in appeal and the appellate authority by his order passed on 9.12.1988 has affirmed the findings of the disciplinary authority and has maintained the order of dismissal. Aforesaid orders of the disciplinary authority and the appellate authority were carried by the applicant in revision and the revisional authority by his order passed on 14.5.1992 has maintained the aforesaid orders of the disciplinary authority as also the appellate authority and has dismissed the revision application. Aforesaid orders of the disciplinary authority, the appellate authority and the revisional authority are impugned by the applicant in the present OA.

4. We have heard the learned counsel appearing for the contending parties and we are clearly of the view that the orders of the disciplinary authority, the appellate authority and the revisional authority holding the applicant guilty and imposing the impugned order of penalty of ~~dismissal~~ from service are clearly unsustainable. Aforesaid finding of guilt is based on certain statements which have been recorded in the preliminary enquiry. The said statements, in our view, do not and cannot substantiate the ~~evidence and, therefore, cannot be referred to and relied upon.~~ ^{allegations. The said evidence} ~~to and relied upon.~~ ⁺ referred to the evidence which has been recorded during the

disciplinary proceedings. The short issue which had been raised for consideration in the disciplinary proceedings was whether or not the applicant had delivered the amount of Rs. 200/- contained in the money order to the original payee Sh. Mohd. Islam. As far as the applicant is concerned, it was his defence that he had duly paid over the amount to the aforesaid payee and as far as the aforesaid payee is concerned, he has in no uncertain terms deposed that he has ~~not~~ received the amount. In view of the aforesaid state of evidence, we find it difficult to fathom how a finding can be reached that the aforesaid amount has not been paid over to the payee and that too on the basis of certain material to be found in the preliminary enquiry which, as already stated, was held behind the back of the applicant. Aforesaid impugned orders passed by the disciplinary authority, the appellate authority and the revisional authority are, in the circumstances, quashed and set aside and that of enquiry officer holding the applicant not guilty is maintained. The order of dismissal from service, in the circumstances, is quashed and set aside. Respondents are accordingly directed to reinstate the applicant back in service within a period of two months from the date of service of this order. Applicant will also be entitled to all consequential benefits.

5. Present OA is allowed in the aforesated terms.
No order as to costs.


(S. DAYAL)
MEMBER (A)


(ASHOK AGARWAL)
CHAIRMAN