

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 27th day of April, 2001.

Original Application No.1361 of 1994.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

Sri Narendra Kumar Katiyar,

Son of Sri Ram Adhar Katiyar,

Resident of Village & Post-Mirgaon,

District-Kanpur Dehat.

(Sri B.N. Rai, Advocate)

..... Applicant

Versus

1. Union of India through Post Master General,  
Kanpur-208001.

2. Director Postal Services, Kanpur.

3. Superintendent of Post Offices, Kanpur (Mufussil),  
Kanpur Zone, Kanpur.

(Km. Sadhna Srivastava, Advocate)

..... Respondents

ORDER (Oral)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

The applicant has filed this OA under Section 19, challenging the order of punishment by which he has been dismissed from service on conclusion of the disciplinary proceedings. The order of dismissal was passed on 10-3-1993 by Superintendent of Post Offices, Kanpur. The order was confirmed by the appellate authority on 22-7-1994.

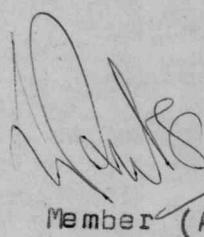
2. Learned counsel for the applicant has submitted that in the present case the Inquiry Officer ~~has~~ submitted his report on 17-11-1993 exonerating the applicant of the charges. The disciplinary authority, however, without serving any memo of disagreement on the applicant and without giving any opportunity of explanation to the applicant passed the order of punishment dated 10-12-1993 dismissing the applicant from service. Learned counsel for the applicant has submitted that the disciplinary authority acted against the provisions contained in the rules and the principles of natural justice. Km. Sadhna Srivastava, counsel for the applicant could not dispute this factual aspect that the disciplinary authority passed the order of punishment without serving the memo of disagreement on the applicant as required in rules and without giving him any opportunity of hearing. However, she submitted that considering the charges the punishment awarded is justified.

3. We have carefully considered the submissions of the counsel for the parties. In our opinion, the lapse on the part of disciplinary authority, in not serving memo of disagreement and in not giving opportunity of explanation and hearing to the applicant, goes to the root of the matter, as the requirement ~~was~~ towards the compliance of the principles of natural justice. Rule 8 of the EDA (Conduct and Service) Rules, 1964 contains a mandatory provision. In our opinion, for this breach, the order of punishment cannot be sustained.

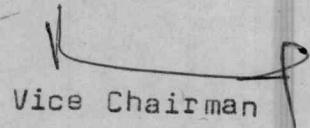
4. For the reasons stated above, this OA is allowed. The order dated 10-12-1993 (Annexure-6) and the order dated 22-7-1994 (Annexure-8) are quashed. It shall be open to the disciplinary authority to proceed against the

applicant from the stage of receiving the report of enquiry from the Inquiry Officer. As the matter is very old the disciplinary authority shall conclude the proceeding within three months.

5. The DA is disposed of accordingly with the above direction. There shall be no order as to costs.



Member (A)



Vice Chairman

Dube/