

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF APRIL, 2002

Original Application No.1081 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

J.M Pathan, Son of Madaran Khan Pathan  
L.S.G, Postal Assistant, Sarai  
Harkhoo, district Jaunpur.

... Applicant

(By Adv: Shri M.K.Upadhyay)

Versus

1. The Union of India  
Through the Director General  
Posts, Dak Bhawan, New Delhi.
2. The Director Postal Service,  
Allahabad region,  
Allahabad.
3. The Superintendent of Post Offices  
Jaunpur.
4. The Chief Post Master General  
U.P.Circle, Lucknow.

... Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has challenged the order dated 23.6.1997 passed by the Disciplinary Authority by which applicant has been awarded punishment of reduction in pay from Rs1800/- ~~scale~~ to five stages in pay scale of Rs1400-2300 and from 1800 <sup>to</sup> 1600/-. The order further provides that the applicant will not earn increments during the aforesaid period. However, after the expiry of the period it will not effect the future increments. In other words, the

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order was without cumulative effect. Against the aforesaid order applicant filed appeal which has been dismissed on 30.7.1999, which has also been challenged. It may be mentioned here that initially this OA was filed challenging the notice dated 1.2.1993 by which applicant was served the copy of the report of the Inquiry officer and was asked to show cause within 15 days, <sup>so that</sup> ~~as~~ suitable decision may be taken in the matter. The relief sought initially was to quash this notice and further to direct the respondents to promote the applicant from the date his juniors have been promoted w.e.f. 1.10.1991. During pendency of this OA the Disciplinary Authority served with the copy of memo of disagreement dated 18.3.1996 and after giving the applicant opportunity to file his explanation, passed the order of punishment which has been upheld in appeal.

There were three charges against the applicant. The first charge was that applicant while working as SPM, Navpurwa sub post office on 20.8.1990 failed to properly examine the genuineness of the Money orders received from Jaunpur Head Office through regd. bag dated 18.8.1990 and thereby acted in contravention of Rule 23 of Postal manual VolVI, Part.II.

The second charge was that applicant while working in the aforesaid capacity failed to examine the money orders received for payment thoroughly and properly before authorising payments and thereby acted in contravention of Rule 25 of the Postal Manual Vo.VI Part II.

The third charge was that the applicant while functioning as SPM Navpurwa sub post office prompted the <sup>fraudulent</sup> payment of several money orders and thus it is

alleged that he failed to maintain absolute integrity and ~~in devotion~~ dereliction to duty as required of him under Rule 3(1)(i) and(ii) of the CCS(Conduct) Rules, 1964. As usual, the applicant submitted his reply to the aforesaid charges and denied them. Inquiry officer was appointed who submitted his report on 12.1.1993 with the conclusion that the aforesaid charges ~~were~~ not proved against the applicant. The Disciplinary Authority then served the memo of disagreement on 18.3.1996. The applicant submitted his representation on 3.4.1996. Considering the entire material the Disciplinary Authority passed ~~the~~ The order of punishment as stated above which has been maintained in appeal.

Shri Upadhyay counsel for the applicant has submitted that, the conclusion of the Inquiry officer ~~was~~ that no charge is proved against the applicant, was justified and the applicant has been punished in an arbitrary manner. It is also submitted that Sushil Chand who distributed the money orders was also charged who has been exonerated by order dated 30.8.1993 though the charges ~~with~~ <sup>Were</sup> with regard to same transaction.

We have heard the submissions. The disciplinary Authority has observed in its order that name, address and name of the paying office were erased and were again written not only in one money order but <sup>in</sup> number of money orders. The observation of the Disciplinary Authority ~~that~~ is such a glaring fact which was visible with the naked eyes was sufficient to create a suspicion in the mind of the applicant for taking action in the matter, but he failed to discharge his duties as required under Rule 23 & Rule 25. The defence of the applicant, as stated by his counsel, ~~is~~ that after erasing names, the same names and addresses were repeated and thus there could not be any

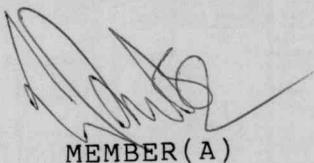
oblique motive behind such changes. It is difficult to infer that how the same mistake was required to be corrected in all the money orders in which the payees were different and their addresses were different. The fact that in successive money orders the same exercise ~~was repeated~~ <sup>being done</sup> In normal course, the officer should have got suspicious. The applicant, thus has rightly been found guilty of the charge that he could not exercise the vigilance required from him. After perusal of the order of the Disciplinary Authority and Appellate Authority, in our opinion, the applicant has been given full opportunity and the orders do not suffer from any error of law. The Inquiry officer without realising the gravity of the ~~matter~~ <sup>case</sup> over simplified the matter, which has been corrected by the authorities. The punishment awarded is also commensurate and does not call for any interference.

The learned counsel for the applicant lastly submitted that memo of charge was served on the applicant on 12.2.1992, whereas the applicant became entitled for promotion on 1.10.1991 when no disciplinary proceedings were pending against him. On this basis applicant has submitted that respondents may be directed to grant promotion to the applicant. It is true that memo of charge was served on 12.2.1992 but the charges relate to 20.8.1990. Thus, the charges which have been found proved against the applicant. They are with regard to the period when applicant committed misconduct and it is difficult to say that the period was not relevant for denying the promotion to the applicant. It has also been submitted that though the inquiry report was submitted on <sup>order of punishment was passed in 1997</sup> 12.1.1993 i.e. after more than 3 years, the appeal was

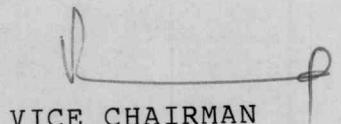
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decided in 1999. However, in this connection, the full facts are not before us and we are not able to go deep into the causes of delay, <sup>in so as to fix responsibility</sup>. In any way, we do not find any illegality in <sup>note</sup> granting promotion to the applicant till the punishment was operative against him. The punishment was for the period of 3 years which ended in June 2000. Thereafter applicant became entitled for promotion which shall be considered and granted to the applicant without any delay.

Subject to aforesaid direction this OA is dismissed with no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 24.4.2002

Uv/