

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

(12)

ALLAHABAD

Allahabad : Dated this 3rd day of July, 2001.

Original Application No. 1327 of 1995.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.
Hon'ble Maj Gen KK Srivastava, A.M.

Paras Nath Yadav S/o Sri Ram Deo Yadav,
R/o Village and Post-Asroopur,
(Mahrajganj), District Jaunpur.

(Sri KP Srivastava, Advocate)

• • • • • Applicant

Versus

1. Union of India through the Secretary (Post),
Ministry of Communication, Govt. of India,
Delhi.
2. The Postmaster General,
Allahabad Region, Allahabad.
3. The Regional Director,
Postal Services, Allahabad.
4. The Superintendent of Post Offices,
Jaunpur Division, Jaunpur.

(Sri Amit Sthalekar, Advocate)

• • • • • Respondents

O R D E R (O r a l)

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

By this OA the applicant has challenged the order dated 17-9-1993 passed by the disciplinary authority which directed to recover Rs.800/- from the applicant. The order of punishment was, however, reviewed by respondent no.3, Regional Director Postal Services and by order dated 20-6-1994, ^{he} altered the quantum of punishment and directed removal of the applicant from service. The applicant at the relevant time was serving as EDBPM, Asroopur under Post Office Mahrajganj, jaunpur. In appeal the appellate authority, respondent no.2, dismissed the appeal though he directed to give another opportunity to the applicant to serve on the post. Aggrieved by the said order ^{of} the applicant has approached this Tribunal.

(13)

2. Sri KP Srivastava, learned counsel for the applicant has submitted that on the findings recorded by the appellate authority the order of punishment awarded by the reviewing authority, respondent no.3, should have been quashed. It is submitted that the appellate authority even on merits expressed doubts in so many words that the charge of misconduct against the applicant has not been proved. The appellate authority also found that the order of punishment of removal is also not commensurate to the charge. Learned counsel has submitted that in these circumstances the appellate authority should have set aside the order of punishment against the applicant and he was entitled to be reinstated on the post. Learned counsel has also submitted that the appellate authority has committed serious illegality in the matter.

3. Sri Amit Sthalekar, counsel for the respondents on the other hand submitted that the appellate authority has taken a humanitarian view and gave a chance to the applicant to serve in the Post Office, but the appellate authority rightly did not interfere with the order of punishment and the order does not suffer from any error of law.

4. We have carefully considered the submissions made by counsel for the parties. The applicant was served with a memo of charge which contained three charges in 1988.

5. The first charge was that the applicant tampered envelop which was insured and substituted the contents by plain paper. The second charge was that he absented from duty without permission on leave from 24-6-1981 to 26-6-1981. The third charge was that on 24-6-1981 he did not weigh insured letter and again tampered with the same and changed contents.

6. As already stated above that the disciplinary authority awarded punishment of recovery of Rs.800/- from the applicant which was enhanced by the reviewing authority and he awarded punishment of removal from service. The question of termination ^{for consideration} ~~of termination~~

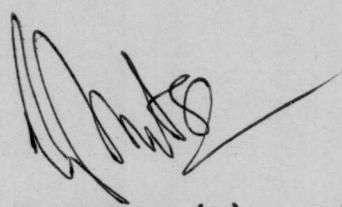
R *-----*

is whether on the finding recorded by the appellate authority the punishment awarded by the reviewing authority can be sustained. It is necessary to mention here that the findings of the appellate authority have not been assailed before us either by filing a cross-objection or by filing a separate OA challenging the order of the appellate authority. The findings thus recorded have become final. Even during arguments the findings of the appellate authority have not been questioned before us. In respect of the charges the appellate authority has recoded a categorical finding that in the circumstances a doubt arises and it is difficult to find the applicant guilty of the misconduct. In respect of other charges also the appellate authority accepted the submissions made by the applicant as relevant and ~~forceful~~. In these circumstances, it cannot be said that the charges against the applicant were proved. The appellate authority has also noted that in respect of charges of 1981, the memo of charge was served in 1988, i.e. after seven years and the punishment order of removal was passed in 1994. Thus, he has concluded that though misconduct has been ~~said~~ to be proved but it is surrounded by doubts. In respect of the punishment awarded the appellate authority has said that the punishment of removal is not commensurate with the charges as ^{found} ~~is~~ proved against the applicant. Thus, for all purposes the appellate authority disagreed with the findings recorded by the reviewing authority. In our opinion, with these findings the appellate authority should have granted relief to the applicant exonerating him of the charges and by setting aside the order of punishment. The appellate authority was not justified in maintaining the punishment. The result is that the conclusion arrived at is contrary to the findings recorded by the appellate authority. The appellate authority was not justified in maintaining the punishment and offering the applicant another opportunity of alternate appointment. In our opinion the applicant is

(13)

entitled for the relief.

7. The OA is accordingly allowed. The order dated 17-9-93 (Annexure-A-4) and the order dated 20-6-1994 (Annexure-A-7) are quashed. The order dated 23-6-1995 (Annexure-A-1) shall stand modified to the extent that the applicant shall be entitled for being reinstated on the post with continuity in service. However, he shall not be entitled for back wages. No costs.



Member (A)



Vice Chairman

Dube/