

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 22nd DAY OF JANUARY, 2002

Original Application No. 517 of 1995

CORAM:

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

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

Kripa Shanker Tripathi, Son of
Late Sri Nidhi Narain Tripathi
aged about 59 years, R/o village
Kanaura, Post Pehari, district Mirzapur.

... Applicant

(By Adv: Shri K.P.Srivastava)

Versus

1. Union of India through the
Secretary(Post) Ministry of
Communication, Govt. of India,
New Delhi.
2. The Director Postal Services,
Office of the P.M.G,
Allahabad.
3. The Superintendent of Post Offices
Mirzapur.

... Respondents

(By Adv: Shri Prashant Mathur)

O R D E R(Oral)

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

By this OA applicant has challenged the order dated 11.3.1993 passed by Director Postal Services, respondent no.2 by which he set aside the order dated 18.9.1991 and remitted the matter back to Disciplinary Authority for denovo proceedings from the stage of issue of fresh charge sheet and to take a decision keeping in view the adjustment loss sustained by the department. The applicant has also challenged the orders dated 3.9.1993 passed by the Disciplinary Authority and order dated 23.2.1995 passed by the Appellate Authority under which the applicant has been punished and a direction has been given to recover Rs1000/- from the applicant.

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The facts in short, giving rise to this OA are that applicant was serving as Mail Overseer at Chunar, district Mirzapur. He was subjected to disciplinary proceedings by serving a memo of charge. However, after considering the facts and circumstances, only ^{disciplinary authority} ~~was~~ a punishment of censure to the applicant on 18.9.1991. Against this order no appeal was filed. The Appellate Authority by suo moto exercise of power conferred under Rule 29(v) of CCS(CC&A) Rules 1965 passed the order on 11.3.1993 and remitted back the case to Disciplinary Authority for denovo proceedings. ^{As} This order goes to the route of the matter, it is being reproduced below:-

Department of Posts, India

Office of the Post Master General Allahabad 211001

REVISION-ORDER

No.Vig/8-12/92/1

Dated Alld. the 11.3.1993

In exercise of the powers conferred under clause of sub rule(1) of the Rule 29 of CCS (CCA) Rules 1965 it was proposed to review the penalty of censure awarded by the SPOs.Mirzapur vide his office memo no.F 4/88-89/Kripa Shanker dt.18.9.91 to Shri Kripa Shanker Tripathi sorting Postman Mirzapur HO.

The case was examined and it was found that the case in which this official was proceeded against and punished with the penalty under review, there is a loss of Rs31010/- to the Deptt. The SPOs in the charge sheet served to the official did not mention this amount of loss and the adjustment of loss was not kept in view.

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The case is, therefore, remitted back to disciplinary authority for De-novo proceedings from the stage of issue of fresh charge sheet and take decision keeping in view the adjustment of loss sustained by the Deptt.

Sd/-

A.Tripathi

Director Postal Services
Allahabad 211001

To

Shri Kripa Shanker Tripathi
Sorting Postman
Mirzapur.

"


From perusal of the order it is clear that it was passed on 11.3.1993 though under Rule 29(V) of CCS(CCA) rules it could be revised only within six months from the date of the order. Further, no opportunity of hearing was given to the applicant before passing the order. It cannot be disputed that an order directing a denovo inquiry against the applicant was an adverse order and such order could not be passed without complying with the principles of natural justice. It is also noticeable from the order that respondent no.2 clearly observed in the order that Disciplinary Authority did not consider the loss of Rs31010/- to the department and passed order of punishment taking a lenient view. The direction was that the order shall be passed keeping in view the loss sustained by the department. Thus, there was a clear indication for enhancement of punishment which also had adverse effect against the applicant. In our opinion, such order could not be passed without giving opportunity of hearing to the applicant.

Shri Prashant Mathur, learned counsel appearing for the respondents, however, submitted that this OA has been filed on 22.5.1995 and it is beyond time and liable to be rejected on this ground alone.



We have considered the submission of Shri Mathur. However, the applicant retired from service on 31.10.1993. He was given a notice on 16.8.1993 i.e. just two months before his retirement that he will be subjected to fresh inquiry under the impugned ~~order~~ ^{order} dated 11.3.1993. He was also asked to file objection against the same within ten days. The applicant filed his objection on 27.8.1993 and the order of punishment was passed on 3.9.1993. Then the applicant filed an appeal which was dismissed on 23.2.1995. The sequence of the dates clearly show that there is no delay on the part of the applicant in challenging the order. In pursuance of the impugned order he was subjected to inquiry and he was contesting the same. The submission thus of the learned counsel for the respondents cannot be accepted. Otherwise also, in our opinion as the impugned order dated 11.3.1993 caused serious injuries to the applicant it should not be allowed to continue and delay if any, is condoned in the interest of justice. As the order dated 11.3.1993 is quashed. The rest of the proceedings taken by the department in pursuance of the same became without authority and the impugned orders dated 3.9.1993 and Appellate order dated 23.2.1995 are also liable to be quashed.

The OA is accordingly allowed. The impugned order dated 11.3.1993(Annexure 7) and order dated 3.9.1993(Annexure 14) and order dated 23.2.1995 are quashed. The respondents are directed to return the amount if any recovered from the applicant, under the impugned orders, ~~shall be paid back~~ to him within four months from the date a copy of this order is filed. There will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated Jan: 22nd, 2002

Uv/