

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

ORIGINAL APPLICATION No.709 of 1995

Allahabad this the 17th day of September, 2002

Hon'ble Maj Gen K K Srivastava, Member (A)

Hon'ble Mr. A.K. Bhatnagar, Member (J)

Hanuman Prasad Sanghwar, aged about 56 years  
Ex. E.D.B.P.M. Barhapur (under Kanpur Mufassil  
Division) Kanpur.

.....Applicant

By Advocate Shri Rajesh Srivastava

V E R S U S

1. Union of India, through the  
Ministry of Tele-communication,  
(Department of Posts) Dak Tar Bhawan,  
Sansad Marg,  
New Delhi.
2. The Post Master General, Kanpur Region,  
Kanpur-208 001.
3. The Director General, Posts,  
New Delhi.
4. The Chief Post Master General,  
U.P. Circle,  
Lucknow.
5. The Director, Postal Services,  
Kanpur Region,  
Kanpur.
6. The superintendent of Post Office,  
(Mufassil Division Kanpur),  
Kanpur.

.....Respondents

By Advocate Km. Sadhna Srivastava

O R D E R

By Hon'ble Maj Gen K K Srivastava, Member (A)

In this O.A. filed under section 19 of A.T. Act,  
1985, the applicant has challenged the order of punishment  
dated 23.10.92 (Annexure A-I) , Appellate Order dated

17.06.91 (Annexure-A-2) and Revision Order dated 29.11.94 (Annexure A-3) and has prayed that the above orders be quashed.

2. The facts, in brief, are that the applicant was appointed as E.D.B.P.M. at Barhapur, Kanpur (Mufassil Division) w.e.f. 05.01.1976. As per the applicant he never absented from duty for more than 13 years and it was only on 30.10.1989 that he gave the charge to his cousin Shri Brijlal Shankhwar as he fell sick. He sent the application for leave with Medical Certificate for grant of leave for the period from 30.10.1989 to 04.11.1989. The applicant further maintains that he submitted further Medical Certificates alongwith leave applications for the period from 05.11.89 to 30.11.1989 and again from 01.12.1989 to 03.01.1990. On 04.01.1990 when he attended to join his duties, he found that Shri Krishna Kumar Pandey E.D. Packer of Akbarpur Sub Post Office was working as E.D.B.P.M. at Barhapur Post Office in place of applicant's substitute Shri Brijlal Shankhwar. The charge of E.D.B.P.M. was not handed over by Shri K.K. Pandey, the applicant approached S.D.I. as well as Superintendent of Post Offices but to no avail. He was also advised by Sub-Divisional Inspector (S.D.I.) that he should submit his Medical Certificate for entire period and only then his case could be considered. The applicant was issued with a charge sheet dated 27.11.1990 on 01.12.1990 for un-authorised absence from 04.01.1990. The applicant again submitted a consolidated Medical Certificate for the period from 04.01.90 to 10.12.90. The enquiry was conducted and the applicant was denied the reasonable opportunity. The enquiry report was submitted on 14.05.1991 holding the charge as proved. The impugned order was passed on 17.06.1991 dismissing the applicant from service. The applicant filed an appeal before the Director, Postal Services who rejected the same vide order dated 23.10.1992. He filed a review petition before Post Master

General, Kanpur, who decided the review petition vide order dated 29.11.94 modifying the penalty of dismissal from service to that of removal.

3. Shri Rajesh Srivastava, learned counsel for the applicant submitted that the only relief which the applicant got from the reviewing authority was that the punishment of dismissal was modified from that of dismissal to that of removal only because of the direction of this Tribunal dated 14.07.1994 passed in O.A. filed by the applicant to decide his representation as averred in para-4.13 of the O.A.

4. The learned counsel for the applicant assailed the action of the respondents on the ground that inspite of the fact that the applicant has been informing about his illness to the respondent from time to time, the respondents did not consider sanctioning his leave and passed the impugned order which is bad in law. He also submitted that before passing the order of punishment, the applicant was not given any warning. The action of the respondents is therefore arbitrary and the impugned orders are liable to be quashed.

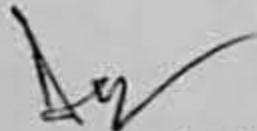
5. Km. Sadhna Srivastava resisting the claim of the applicant submitted that proper disciplinary proceedings were initiated, reasonable opportunity was given to the applicant and only then after application of mind, the Disciplinary Authority passed the orders. The appellate authority as well as the reviewing authority have applied their mind while passing the respective orders.

6. Learned counsel for the respondents invited our attention to para-13 of the counter and submitted that the applicant did not attend the post office to resume his duties as he was involved in a criminal case. He gave the <sup>to substitute</sup> charge and applied for leave to avoid arrest. The applicant was involved in a criminal case No.213/89 under section 147/323/304 Cr.P.C. The applicant was released on bail on 30.08.1990. Even after the applicant was released on bail,

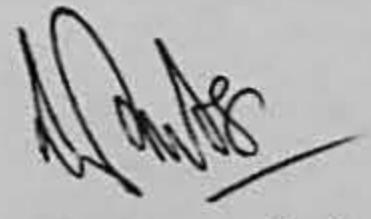
he did not either join his duties or represented to higher authorities in case he was not given the charge.

7. We have considered the submissions of the counsel for the parties and have perused records. We have also gone through the impugned orders. We find that the punishment order dated 17.06.1991, Appellate Order dated 23.10.92 and Revision Order dated 29.11.94 are detailed and speaking orders. The points raised by the applicant in his defence have been considered at every stage and the respondents at various levels have applied their mind while passing the orders. We also find substance in the submission of the learned counsel for the respondents that, in case the applicant was not handed over the charge by Shri K K Pandey, he should have approached the higher authorities which he did not. A simple statement, that he approached the Sub-Divisional Inspector and the Superintendent Post Offices with a request that he should be taken back on duty, will not help the applicant. We also find substance in the submission of the learned counsel for the respondents that the applicant did not make any effort to join his duties after he was granted bail on 30.08.1990. It appears that the applicant was too busy and involved with the criminal case, which was filed against the applicant. He totally neglected his duties. As regards the submission of the applicant that he informed the department about his illness, we find no evidence on record to show that the applicant informed the respondents about his prolonged absence. We find that the O.A. is devoid of merit and is liable to be dismissed.

8. In the facts and circumstances and ~~on~~ aforesaid discussions, the O.A. is dismissed being devoid of merits. No costs.



Member (J)



Member (A)