

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1010 of 1995

Allahabad this the 30th day of July, 2003

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr.D.R. Tewari, Member (A)

U.S. Prasad, Son of Shri Shri Krishna Prasad, R/o
Village Chandrapura, Post Bansdeeh Road, District
Ballia.

Applicant
By Advocates Shri R.P. Singh,
Shri S.K. Pandey

Versus

1. Union of India through Finance Secretary,
Ministry of Finance, Department of Economic
Affairs, Central Secretariat, New Delhi-
110001.
2. National Savings Commissioner, 12, Seminary
Hills, Post Box No.96, Nagpur-440006.
3. Regional Director, National Savings, Government
of India, 116-C, Ashok Nagar, Allahabad.

Respondents

By Advocate Shri D.S. Shukla

O R D E R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A. under Section 19 of the
Administrative Tribunals Act, 1985 the applicant
has challenged the order of punishment dated 30th
July, 1993 by which after conclusion of disciplinary
proceedings, disciplinary authority awarded punishment
of removal from service to the applicant. The applicant
was serving as District Savings Officer. The appeal

filed by the applicant, was dismissed by order dated 17.01.1995(annexure-2), which has also been challenged.

2. The facts of the case are that the applicant was served with a memo of charge dated 20.02.1987. The allegation against the applicant was that while serving at Kanpur during the period 1977 to 1981, he recommended for appointment of a fake lady as Mahila Pradhan Kshetriya Bachat Yojna Agent (in short M.P.K.B.Y. Agent) namely Km.Keshwari Begam and ~~checked~~ ^{recommended} false commission bills to the extent of Rs.33,796.20 in the name of Km.Keshwari Begam, Km.Brijlata Srivastava, Smt.Rani Bajpai, Km.Suman Lata, Smt.Seeta Srivastava Km.Mithilesh Srivastava, Smt.Prabha Singh, all M.P.K.B.Y.Agents. The applicant denied the charge and contested the proceedings. The Inquiry Officer submitted his report on 14.10.1991. He found that the charge against the applicant that he negligently recommended the appointment of non-existing lady as M.P.K.B.Y. Agent, is established. In respect of another charge, the Inquiry Officer found that it is partly established only with regard to bills of five agents. The disciplinary authority agreed with the report of Inquiry Officer and passed the punishment order, as mentioned above, which has been maintained in appeal. Learned counsel for the applicant has submitted that the appellate authority dismissed the appeal of the applicant without considering the material points which were raised in memo of appeal, and which demonstrated that the report of



Inquiry Officer and the order passed by the disciplinary authority were not correct. With regard to first charge it has been stated that in memo of appeal applicant specifically stated that his recommendation was made for appointment of Smt.Keshwari Begam on 06.05.1980 whereas the documents which has been proved and filed in the proceedings(exhibit S-11) shows that the recommendation was made on 09.10.1980. There is also difference between the identity of two ladies.

The applicant recommended the appointment of Keshwari Begam D/o Shabbir Ahmad, R/o Govind Nagar, Kanpur, whereas Exhibit S-11 shows that applicant was Smt.Keshwari Begam W/o Farooq, R/o Kidwai Nagar, Kanpur. Counsel for the applicant has submitted that this aspect of the case has ^{never} ~~not~~ been considered by the disciplinary authority nor by the appellate authority. The lady which was recommended by the applicant for appointment never submitted any bill. The applicant has also submitted that the period during which the applicant served at Kanpur was between 1980 to 1982. He joined at Kanpur on 23.02.1980 whereas this practice of recommending the fake bill without depositing the amounts in the Post Office was continuing from 1977. The applicant ^{had} joined recently at Kanpur and could not ^{be} ~~be~~ ^{pastor to} ~~joined~~ this mal-practices but, this aspect ^{had} been totally ignored by the appellate authority. Lastly it has been submitted that the proceedings were initiated against six persons including the applicant but, all have been exonerated or they have been awarded minor punishment, only applicant has been chosen for awarding extreme penalty of removal.

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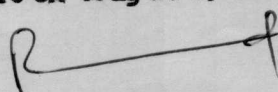
It has also been submitted that the role of the applicant was only supervisory and he could not be expected to know whether the amount has been actually deposited in the Post Offices or not, the documents which were placed before the applicant, ~~they~~ bore judicial stamp and genuine seal. It is submitted that the applicant was discriminated. It has also been submitted by the learned counsel for the applicant that the certain documents which were demanded by the applicant, were not supplied.

3. Shri D.S. Shukla, learned counsel for the respondents on the other hand submitted that both the charges against the applicant have been found proved and the appellate authority has only confirmed the order according to the findings recorded by the disciplinary authority, hence detail reasons were not recorded.

4. We have carefully considered the submissions made by the counsel for the parties.

5. In our opinion, in this case the ~~applicant~~ ^{appellate authority} has not been able to discharge his obligation in accordance with law. Perusal of the order dated 17.01.1995 passed by the appellate authority shows that he concluded the entire matter in para-6 of the order, which reads as under;

"In his appeal Shri Prasad has not brought out any new points for consideration. Moreover, Shri Prasad has accepted the charges in his defence brief on 10th August, 1991. I am



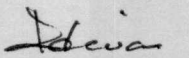
satisfied that the disciplinary authority had no animus against the delinquent official. Having regard to the circumstances of the case the undersigned as Appellate Authority, considers that the punishment awarded is consistent with the grave offence committed by Shri Prasad while discharging his official duties. The penalty already imposed may stand. The undersigned as Appellate Authority in this case rejects the appeal preferred by Shri Prasad."

6. From the aforesaid, it is clear that the appellate authority failed to consider various points raised by the applicant in his memo of appeal dated 10.09.1993(annexure-7). The applicant infact has not accepted the charge in his defence brief on 10.08.1991. He only accepted that such things were happening since 1977 and he was unaware when he joined in 1980. He signed the papers in good faith. Such statement cannot be treated as admission of misconduct. The appellate authority has failed to consider the main grievance of the applicant mentioned in the memo of appeal. The difference in date of recommendation in Exhibit S-11 was very important and if the contention of the applicant was true that he recommended on 06.05.1980 whereas on the documents produced recommendation is of 09.10.80, The disciplinary authority as well as the appellate authority have ~~been~~ failed to consider ^{the impact of} this difference. In respect of other charge, it has only been found partly proved. Charge against the applicant was of negligence and appellate authority was required to consider whether in respect of charge of negligence punishment of removal could be awarded. The applicant seriously raised the issue that in the matter of

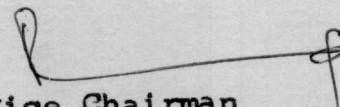
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punishment, he has been discriminated. Though charge was similar in respect of the others, they have been laid off by awarding minor punishment and only applicant has been awarded extreme penalty. The appellate authority was required to consider this aspect of the case. In our opinion, the ends of justice required that the matter may be remitted back to the respondents authorities to decide the appeal in the light of the observation, ~~as~~^{which} made above.

7. For the reasons stated above, this O.A. is allowed in part. The order of the appellate authority dated 17.01.1995(annexure-2) is quashed and appeal of the applicant shall stand restored before the appellate authority ^{which} ~~the~~ shall be decided in accordance with law and in the light of the observations made above, within a period of four months from the date a copy of this order is filed. It is made clear that in case applicant requests for personal hearing, it shall also be provided to the applicant. No order as to costs.


Member (A)

/M.M./


Vice Chairman