

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

O.A.NO. 1070/95

Allahabad, this the \_\_\_\_\_th day of \_\_\_\_\_, 1999.

CORAM : Hon'ble Mr. S.Dayal, Member (A)  
Hon'ble Mr. S.K.Agrawal, Member (J)

Kameshwar Nath Pandey,  
S/o. Sri Madan Mohan Pandey,  
R/o. Village Bandhu Chak, P.O.Nagawa,  
Distt. Ballia.

.....Applicant

Versus

1. Union of India through Secretary, Ministry of Communication, Govt. of India, New Delhi.
2. Director, Postal Services, Gorakhpur Region, Gorakhpur.
3. Senior Supdt. R.M.S. , 'G' Division Gorakhpur.

.....Respondents.

(By Km.S.Srivastava, Advocate)

ORDER

(By Hon'ble Mr. S.K.Agrawal, Member (J) )

In this original application applicant makes following prayers :-

- (i) The concerning file No. K-7/1/KNP/92 of the Sr.Suptd. RMS 'G' Dn. Gorakhpur respondent No.3 may kindly be summoned before Hon'ble Tribunal for perusal.
- (ii) The order of punishment contained in Sr.Suptd. RMS 'G' Dn. Gorakhpur dt. 21.12.93 may kindly be quashed as illegal and contrary to law.

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(iii) The order of the appellate authority dt. 13-9-95 may be declared to be illegal & contrary to law.

2. In brief facts of the case as stated by the applicant are that the applicant while working as Sorting Assistant in RMS Wing, Ghazipur was served upon a charge-sheet under Rule 16 of C.C.S.(C.C.A.) Rules, 1965 on 17-12-92. Applicant demanded certain documents before submitting his defence vide his application dated 27-1-93 but only some documents were shown. Again the applicant demanded certain documents vide his application dated 1-6-93, but no document was supplied and an ex-parte order of imposing penalty was passed on 21-12-93. Applicant preferred an appeal which was also rejected by a non-speaking order dated 13-9-95. It is stated that impugned order of imposing penalty is illegal, in violation of principle of natural justice and is also hit by the provisions of Article 311 of Constitution of India. It is further stated that copy of preliminary enquiry report was not supplied to the applicant, therefore the order of punishment as well as order passed by the appellate authority are not sustainable in law. Therefore applicant filed this original application for the relief as mentioned above.

3. Counter was filed. It is stated in the counter that on 11-6-92 the applicant misbehaved with Head Sorting Assistant Shri Shiv Poojan Yadav and used unparliamentary language which was against the office decorum and discipline. Therefore Memo of charges was served upon the applicant on 19-1-93 for submitting his defence. The applicant demanded certain documents vide his application dated 27-1-93 which was shown to the applicant on 31-5-93, but did not submit his defence. The applicant also demanded

to other documents vide his application dated 1-6-93, thereafter the applicant was informed vide letter dated 16-6-93 that the documents in question were irrelevant and the applicant was asked to submit the defence within ten days. The applicant did not submit his defence till 7-9-93, therefore the case was decided ex-parte and penalty of withholding of one increment for three years without cumulative effect was imposed upon the applicant vide impugned order dated 21-12-93. The applicant filed an appeal which was also rejected vide order dated 13-9-95. It is stated that on 21-3-93 documents demanded vide application dated 27-1-93 was served to the applicant and with reference to the application dated 1-6-93 the applicant was informed accordingly. It is further stated that order of appellate authority is a speaking order and was passed after full application of mind, therefore same is legal, just and proper and this petition is devoid of any merit and liable to be dismissed.

4. Rejoinder was also filed, reiterating the facts stated in the original application.

5. Heard the applicant in person and learned lawyer for respondents and perused the whole record.

6. On the perusal of pleadings of the parties, it appears that some of the documents were neither supplied to the applicant nor shown to him. Admittedly the preliminary enquiry was conducted for this incident in question by the department mainly for collection

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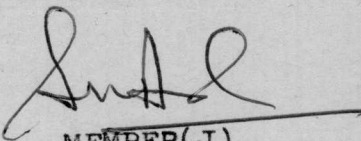
of facts so as to take a decision whether disciplinary action is necessary in this case and against the whom. The preliminary enquiry report is required to be furnished to the delinquent if the same has been acted upon for framing the charges. On going through the order of disciplinary authority it appears that disciplinary authority has relied upon certain documents as well as preliminary enquiry report copy of which has not been supplied to the applicant although the applicant demanded the same for preparing his defence. Therefore principles of natural justice are violated in this case and on this count alone the order of disciplinary authority dated 21-12-93.


7. During the course of arguments applicant has drawn our attention to the judgement delivered in O.A.No. 1144/95 delivered on 26-5-98 and submitted that case of the applicant is covered by this judgement. This original application was filed by the applicant and similar issues were in old for decision in this original application also. Therefore, in view of the deliberation in this judgement and the facts and circumstances of this case we are of the opinion that impugned order passed by the disciplinary authority and appellate authority are not sustainable in law as the order of disciplinary authority was passed in violation of the principles of natural justice. Since the order of disciplinary authority is not sustainable in law therefore the order of appellate authority which was passed upon the decision of disciplinary authority is also not sustainable in law.

8. We, therefore, allow this original application and quash the order dated 21-12-1993 passed by disciplinary authority and 13-9-95 by appellate authority.

9. This order shall not preclude the respondents from taking action against the applicant as per rules after furnishing the demanded documents/preliminary enquiry report.

10. No order as to costs.

  
MEMBER(J)

  
MEMBER(A)

/satya/