

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 16th day of DECEMBER 2004.

Hon'ble Mrs. Meera Chhibber, Member J
Hon'ble Mr. S.C. Chaube, Member A

Original Application no. 1593 of 1999.

Baldeo Prasad, S/o Dhakan Lal,
R/o Vill Anand Pur,
Alias Bhagwantapur, Post Anand Pur (Bhagwantapur),
Distt. Philibhit.

... Applicant

By Adv : Sri N.L. Srivastava

V E R S U S

1. Union of India through the Secretary,
Ministry of Communication,
NEW DELHI.
2. Director Postal Services,
Bareilly Region,
BAREILLY.
3. Senior Supdt. of Post Office,
NAINITAL.
4. The Post Master General,
Bareilly Region,
BAREILLY.

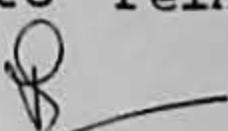
... Respondents

By Adv : Sri S.C. Tripathi

ORDER

By Mrs. Meera Chhibber, JM.

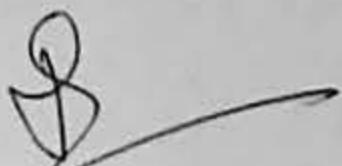
By this OA applicant has challenged the order dated 05.06.1998, whereby the applicant has been removed from service (pg 10) and the order dated 19.3.1999 whereby the appeal was rejected (Pg 13). He has ~~subsequently~~ sought direction to the respondents to reinstate him by treating



him in continuous duty and pay all the arrears.

2. It is submitted by the applicant that he was appointed as Extra Departmental Branch Post Master (EDBPM), Bhagwantapur in 1980. He was issued charge sheet dated 17.10.1994 on three charges, which was denied by the respondents. Therefore, the enquiry was held. The enquiry paper no. 3 & 4 were not supplied to him inspite of direction given by the Enquiry Officer on 11.4.1995. Moreover, his Defence Assistant was also not summoned. Therefore, he was deprived of his right to defend effectively. He further submitted that there was no complainant, therefore, it is a case of no evidence. Accordingly, the punishment given by the Disciplinary Authority as upheld by the Appellate Authority is not sustainable in law. Therefore, the OA may be allowed.

3. The respondents have opposed this OA. They have submitted that in the year 1994 some cases of misappropriation of Govt. money by said Baldeo Prasad came into light. He was accordingly placed under put off duty vide memo dated 19.09.2004. He was served with charge sheet under Rule 8 which was delivered to him on 26.10.1994. Since the applicant denied the charges, proper enquiry was held. The Enquiry Officer submitted his finding on 08.10.1995 and copy of the same was sent to the applicant vide letter dated 11.10.1995 calling upon him to give his representation. The applicant gave his representation which was considered by the Disciplinary Authority and vide order dated 30.01.1996 the applicant was removed from service. The applicant challenged the said order before Post Master General (PMG) who vide its order dated 11.3.1997 remitted the matter back for fresh proceedings



from the stage of punishment, copy of Disciplinary Authorities for disagreement. Thereafter, the disagreement note was sent to the applicant vide SSPOs letter dated 7.4.1998. The applicant submitted his representation thereof and Disciplinary Authority vide its order dated 05.06.1998 once again imposed the punishment of removal from service with immediate effect. The applicant, thereafter, gave his appeal on 05.09.1998 but the same was rejected on 19.03.1999.

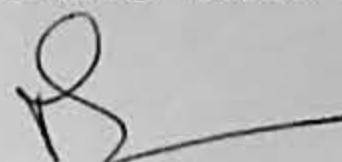
4. As far as the legal submissions made by the applicant are concerned, the respondents have explained that Sri G.L. Srivastava, the Defence Assistant of the applicant did not attain the enquiry on 11.04.1995, even though the applicant was present. The proceedings was accordingly adjourned for 08.05.1995. On 08.05.1995 the documents shown at sl no. 3 & 4 of annexure 3 of charge sheet were supplied by the Presenting Officer to the applicant. The enquiry was further held on 09.09.1995, 25.09.1995 and 26.09.1995 and all the prosecution witnesses were examined. Thereafter, the applicant was given opportunity to produce his Defence Witnesses but he did not want to produce any Defence Witnesses. The Presenting Officer gave his written brief on 26.09.1995, copy of which was given to the applicant on the same date and case was fixed for submission of applicant's brief of defence on 04.10.1995. The applicant also gave his written brief on 26.09.1995, therefore, full opportunity was given to the applicant and it cannot be stated that the applicant has been denied the right to defend himself. They have further explained that on 08.05.1995 the applicant apprised the Enquiry Officer about change of his Defence Assistant as Sri B.D. Tiwari retired Sr. Post Master was stated to be his Defence Assistant, but the applicant failed to produce the written consent of said Sri B.D. Tiwari before the



Enquiry Officer. Still the Enquiry Officer sent intimation to said Sri B.D. Tiwari for hearing on 08.05.1995 & 09.05.1995 but he never turned up before him. Therefore, it cannot be said that the applicant was denied any opportunity. As far as the merit of record is concerned, they explained that the applicant had made entries in the passbook but simultaneously the entries were not made in the RD Journal which was sufficient evidence to show that the applicant had committed fraud in the matter of depositing the money. They have thus prayed that the OA may be dismissed.

5. We have heard both the counsel and perused the pleadings as well.

6. A perusal of annexure CA 1 clearly shows that documents no. 3 and 4 were duly given to the applicant on 08.05.1995 as the order sheet written by the Enquiry Officer is duly signed by the applicant. In the same order sheet it is mentioned that applicant did not bring his Defence Assistant. Since the applicant had engaged a retired officer as his Defence Assistant it was the applicant's own duty to bring him on the date fixed for enquiry. But still the Enquiry Officer sent intimation to him but the said Defence Assistant did not appear inspite of intimation having been sent to him. In these circumstances, we are satisfied that no case has been made out by the applicant for interference by this Tribunal. As far as the contention of misappropriation of Govt. money is concerned, the passbook and the RD Journal makes it absolutely clear that even though the applicant made entries in the passbooks of some persons but simultaneously entries of the same amount in the RD Journal was not made by the applicant, which clearly shows that he had misappropriated



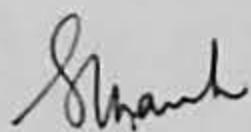
5.

the Govt. money.

7. It is settled law by now that in disciplinary proceedings Court cannot reappriciate the evidence and so long there is some evidence on record it should be left to the authorities concerned to decide the appropriate punishment. In the given circumstances the only ground on which the Court can interfere in disciplinary cases is if ^{or} B there is any irregularity in conducting the inquiry or it is case of no evidence or the findings are perversed in nature. In the instant case since documentary evidence are available on record and applicant had been given full opportunity to defend himself which was not availed by him, Applicant's contention that he was deprived of his right to defend himself cannot be accepted.

8. In view of the above discussions, we find no merit in the OA, The same is accordingly dismissed.

9. There shall be no order as to costs.



Member A



Member J

/pc/