

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No. 210/2000

FRIDAY, THIS THE 13TH DAY OF DECEMBER, 2002

HON'BLE MR. GOVINDAN S. TAMPI .. MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR ... MEMBER (J)

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Har Swaroop Sharma,
S/o Sri Shiv Babu Deen Sharma,
R/o Village Roop Pur Kamalu,
District Pilibhit. ... Applicant

(By Advocate Shri R.K. Nigam - Absent)

Versus

1. The Union of India, through
the Chief Post Master General,
U.P., Lucknow.
2. The Post Master General,
Bareilly Zone,
Bareilly.
3. The Senior Superintendent of Post Offices,
Pilibhit. ... Respondents
4. (By Advocates S/Shri S.C. Tripathi &
R.C. Joshi)

O R D E R

Hon'ble Mr. Govindan S. Tampi, Member (A) :

-Orders dated 30.3.1999 and 6.10.1999 removing
the applicant from service are under challenge in this
O.A.

2. When the case came up for hearing today, none
was present for the applicant even on the second call.
Shri P. Mathur along with Shri S.C. Tripathi and Shri
G.R. Gupta was present. ^{for the Respondents} We are therefore, proceeding to
dispose of this O.A. after examining the facts brought on
record and hearing the learned, as provided under Rule 15
of the C.A.T (Procedure) Rules, 1987.

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3. The applicant who was working as an Extra Departmental Post Master since May, 1977, had been proceeded against on the basis of a frivolous and false allegation, according to him. At the conclusion of the regular inquiry, the Inquiry Officer had ^{refused} written the verdict of not guilty in his favour. However, the Disciplinary Authority differed from the same without giving him any show cause notice, though subsequently a show cause notice had been given which was only formal in nature. When the Inquiry Officer had written a verdict of not guilty, the Disciplinary Authority's hasty order removing of the applicant and upholding of the irregular order by the Appellate Authority were incorrect. In fact, it is a case of no evidence and no mis-conduct had been made out till the applicant's services have been dispensed with on purely extraneous considerations. The applicant's ~~civil rights~~ had not been taken into consideration and have not been protected. The order passed by the Disciplinary Authority was improper and incorrect. The O.A. should therefore, be allowed with full consequential benefits to him is what the applicant pleads.

4. Strongly reiterating the points raised on behalf of the respondents, the learned counsel submits that the applicant was dealt with for a defalcation and diversion of as many as 85 money orders by procuring false thumb impressions of payees. This amounted to more than Rs.40,000/- which were meant to be given to widows, sent by the District Probation Office. In the inquiry, though the applicant was held not guilty, the competent Disciplinary Authority, on

the basis of facts brought on record, took a different view and issued a show cause notice to the applicant and after considering the same had ordered his removal. The order of the Disciplinary Authority was upheld by the Appellate Authority. All the proceedings have been gone through correctly and no infirmity had been committed. This is a case where an authority charged with handling of Government money on behalf of the public have committed defalcation of the same and therefore, finding him to be not fit to be in service, he had been removed from service. No interference by the Tribunal is warranted in this matter, prays Shri Tripathi.

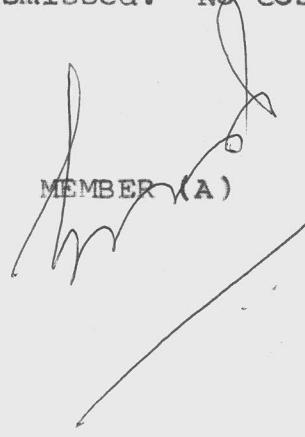
5. We have carefully considered the matter and we are convinced that the applicant has not made out any case for our interference. As categorically pointed out by the respondents, this is a case where the responsible official charged with the duty of handling Government money, held in trust for the public ^{W_m h_{ls}} has to be responsible for its defalcation through his office. It is found that the respondents organisation, the competent Disciplinary Authority had dealt with him properly. It is true that the Inquiry Officer's report had turned in a verdict of not guilty for the applicant, but the Disciplinary Authority has differed from the same on the basis of evidence and proceeded against the applicant after issuing him a show cause notice indicating the circumstances. The impugned order was issued by him only after perusing the representation filed by the applicant. ~~He~~ cannot therefore be said that there has been any violation of principles of natural justice or the procedure irregular or infirmity has been committed by the respondents.

6. In the circumstances of the case and bearing in mind the gravity of the applicant's mis-conduct, we

also cannot observe that the order of the Disciplinary Authority and the Appellate Authority was harsh so as to shock our conscience and order a re-thinking, as directed by the Hon'ble Apex Court in the B.C. CHATURVEDI Vs. UNION OF INDIA & OTHERS - (1996 SCC (L&S) 80.

7. In the above view of the matter, we are fully convinced that the applicant has not made out any case for our interference. O.A. therefore fails, being devoid of any merit and is accordingly dismissed. No costs.


MEMBER (J)


MEMBER (A)

psp.