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RESERVED
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated this the ²⁷ day of Aug 2009.

CORAM:

HON'BLE MR. A.K.GAUR, MEMBER (J)

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER (A)

Order in O.A.No.780/2006 (U)

(U/s 19 of Administrative Tribunals Act 1985)

Suresh Singh, *Kumar Manjuli*
S/o Late Vikram Singh,
Resident of Village Karan-Karayat,
Lohaghat, District - Champawat.

....Applicant

(By Advocate Shri A.Tripathi)

V E R S U S

1. Union of India through its Secretary,
Ministry of Communication,
Department of Post,
Dak Bhawan, Sansad Marg,
New Delhi.
2. Chief Post Master General,
Uttaranchal Circle, Dehradun.
3. Director Postal Services, Dehradun Office,
Region Dehradun.
4. Superintendent of Post Offices,
Pithauragarh Division,
Pithauragarh. . . . Respondents

By Adv: S/Shri S.Singh & S.C. Mishra

ORDER

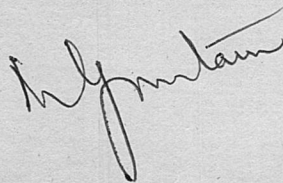
HON'BLE MRS.MANJULIKA GAUTAM, MEMBER (A)

The applicant was appointed as Extra Departmental Branch Postmaster, Karan Karayat in 1992. He was sanctioned leave from 21.1.2000 to 30.1.2000 and he proceeded on leave by providing a substitute in his place. During this period of leave the respondent No.4 visited the Post Office at Karan Karayat and found cash short with the substitute. In spite of the cash being found short being the responsibility of the substitute, the applicant

Manjuli

was put off duty from 3.2.2000. The respondent No.4 has gone through the entire work of the Branch Post Office and verified and issued the charge sheet dated 4.10.2000. After considering the defence of the applicant he was awarded minor penalty of debarring him from appearing in the departmental examination for Group 'D' cadre for the next two years vide order dated 8.11.2000. Subsequently, the order of reinstatement was issued on 13.11.2000.

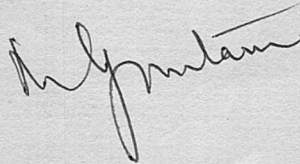
2. The case of the applicant is that with malafide intention the 4th respondent got a fake complaint made against him dated 16.11.2000, allegedly from Gram Pradhan, Village - Karan Karayat. The actual fact is that there is no Gram Sabha named, Karan Karayat and this particular village is a part of Gram Sabha, Moluraj. The applicant has also brought on record the certificates from the present Pradhan and Ex-Pradhan of Gram Sabha Moluraj stating that, no complaint dated 16.11.2000 against the applicant has been made by them. On the basis the above mentioned complaints, the complaint Inspector made certain enquiries and it is found that four R.D. Accounts pass-books of different depositors were retained by the applicant and on several dates he made entries of deposits in the pass books putting the stamp of Post Offices, but the transactions were not entered and accounted for in the post office records. Accordingly another charge sheet for major penalty dated 22.1.2002 was issued against the applicant. The charges were denied by the applicant and the enquiry officer who was appointed in this regard, conducted an enquiry and submitted his report dated 7.1.2003. The applicant also submitted his reply to the enquiry report on 17.1.2003. On the basis of the enquiry report the 4th



respondent who was the disciplinary authority passed the orders of removal from service dated 15.2.2003. Aggrieved by this, the applicant submitted an appeal dated 17.6.2003 before the 3rd respondent which was rejected vide order dated 30.11.2004. Revision petition which filed by the applicant dated 28.2.2005 was also rejected vide order dated 26.7.2005. The applicant by filing this O.A. has sought the following reliefs:

- i. *To issue order, rule or direction for quashing and setting aside the impugned order dated 26.7.2005, 30.11.2004 and 15.2.2003 passed by respondent No.2, 3 and 4 by which the respondent No.4 dismissed the applicant from service and the respondent No.3 rejected the appeal revision of the applicant (Annexure No.A-1,2, 3, to compilation No.1 and part 1 to this original application).*
- ii. *To issue order rule or direction in the nature of mandamus directing the respondents to reinstate the applicant on the said post of Extra Departmental Branch Post Master, Karan Karayat Branch Post Office, Lohaghat, Pithauragarh and also allow all consequential service benefits since the applicant was put off from duty.*
- iii. *To issue any rule, order, rules or direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case, to which the applicant may be found entitled in law.*
- iv. *Award the cost of the original application in favour of the applicant.*

3. Counsel for the applicant has pleaded that the applicant was proceeded against on the basis of forged and fabricated complaint as there is no Gram Sabha, Karan Karayat but, that Karan Karayat is simply a village in Gram Sabha- Moluraj. It is also said that the Gram Pradhan is not mentioned as relied upon witness nor is the complaint mentioned in the list of relied upon documents. Counsel for the applicant has also said that, Enquiry Officer did not provide an opportunity to give the list of defence witness or the additional documents. The applicant was not examined as defence witness. The charges against the applicant were held to be proved whereas all the witnesses had stated

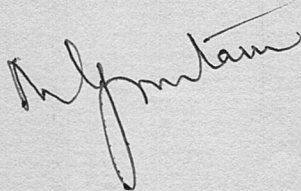


that their pass books were left in the Post office with their consent and in good faith. The applicant was given punishment of removal from service without considering his reply and the fact that no financial loss had occurred. The appellate authority and the revisionary authority also rejected the case of the applicant without applying their mind.

4. Counsel for the respondents on the other hand have stated that, on the basis of a complaint dated 16.11.2000 an enquiry was made and irregularities detected in four Pass Books, which were illegally detained by the Branch Post Master. After following the due procedure, the charges were found proved against him and he was removed from service vide order dated 15.2.2003. The orders passed by the appellate authority and the revisionary authority are detailed speaking orders after giving due consideration to all the points raised by the applicant.

5. Having perused the record on file and heard both the counsel, we are of the opinion that the complaint dated 16.11.2000 on the basis of which charge sheet of major penalty was issued to the applicant, appears to be a fabricated document, and there is no reason to disbelieve the certificates given by the present and ex-Gram Pradhan of Gram Sabha- Moluraj, that no such complaint had been sent by them.

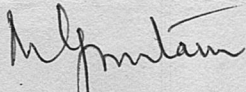
6. Respondents have also conceded that the complaint referred to above could be a fake document, but, the contents when enquired upon, were found to be true. Any disciplinary proceedings based on a fake or fabricated complaint, necessarily stand vitiated in the eyes of law as upheld in Hardwari Lal Versus

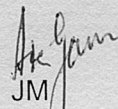


State of U.P. and others, Supreme Court Service Law Judgment, 1999, Vol.2, Page 360. It is also to be noted that no complaints or charges were made by the pass book holders of the Accounts where the irregularity was committed. On the other hand, they described it as action done in good faith and with the consent of the amount holders.

7. In view of the above, the impugned orders dated 26.7.2005, 30.11.2004 and 15.2.2003 are hereby quashed and set aside with a direction to respondent No.4 to consider the genuineness of the complaint made against the applicant as well as the defence taken by him that only procedural lapses were made, and pass fresh speaking orders based on the law and rules within a period of three months from the date of receipt of a copy of this order.

8. O.A. is accordingly allowed. No costs.


AM


JM