

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH**

Original Application No. 251 of 2007

Tuesday, this the 28th day of July, 2009

**Hon'ble Mr. Ashok S. Karamadi, Member (J)
Hon'ble Mrs. Manjulika Gautam, Member (A)**

C.L. Prasad S/o Sri Lalsa Prasad working as Astt. Post Master in
Head Post Office, Varanasi.

By Advocate: Sri Anand Kumar

Applicant

Vs.

1. Union of India through the Secretary, Ministry of Communication, Deptt. Of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Director of Postal Services, Allahabad Region, Allahabad.
3. Sr. Superintendent of Post Office, Varanasi, East Division, Varanasi.

By Advocates: Sri S. C. Mishra
Sri Saurabh Srivastava

Respondents

ORDER

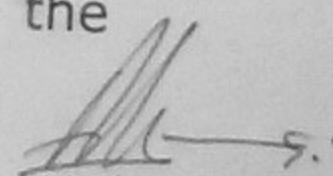
By Hon'ble Mr. Ashok S. Karamadi, J.M.

This application is filed for quashing of the impugned orders dated 30.03.2006 and 24.11.2006 passed by the respondents (produced as annexure A-1 and A-2). The applicant was served with a charge sheet under Rule 16 of CCS (CCA) Rules, 1965, in which it is stated that while working as A.P.M. (Sub Account) Varanasi H.P.O. during the period from 15.01.2005 to 31.01.2005, the applicant failed to take action when Sub Post



Master Syed Raja District-Chandauli did not furnish detailed liabilities on daily accounts and did not send ECB Memo, after retaining excess cash against the authorised maximum limit of Rs.10,000/- which resulted robbery on 31.01.2005 in the evening, causing loss of Rs.2,00,000/- to the department. The applicant submitted his reply on 25.03.2006. After the reply submitted, the respondent No. 3 imposed the penalty of recovery of Rs.60,000/- vide Memo dated 30.03.2006, which was to be recovered in 24 installments of Rs.2500/- per month. The applicant being aggrieved of the same has preferred an Appeal to the Appellate Authority i.e. respondent No. 2 on 24.04.2006, the said Appellate Authority passed the order on 24.11.2006. The applicant further stated that he has filed the Original Application No. 1484 of 2006 challenging the punishment order dated 30.03.2006 and notice of enhancement given by the Appellate Authority during the pendency of the Appeal before the Appellate Authority, the said O.A. was disposed of by the Order dated 02.01.2007 by this Tribunal. The applicant further states that the Order of the Appellate Authority dated 24.11.2006 was served upon him on 24.01.2007. The applicant further states that the grounds urged in the representation and Appeal Memo were not properly considered by the respondents. Hence seek the above relief.

2. On notice the respondents have filed the Counter Affidavit in detail, and stated that having regard to the nature of incidence took place due to negligence and irregularity committed by the applicant, impugned orders were passed. The action of the respondents' authorities was consistent with the gravity of the

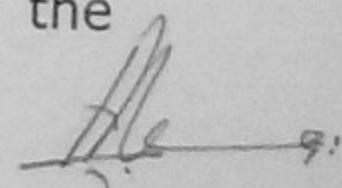


offence committed by the applicant, the orders passed by the respondents are not arbitrary but the same are in accordance with law, hence seeks for the dismissal of this O.A.

3. The applicant has filed the Rejoinder Affidavit, reiterating the same contentions, as averred in the O.A. Respondents have filed the Supplementary Counter Affidavit, reiterating their contentions urged in the Counter Affidavit.

4. We have heard the learned counsel for the parties and perused the pleadings and materials available on record.

5. Learned counsel for the applicant submits that the respondents' authorities have not considered the grounds urged in the representation as well as in the Appeal Memo of the applicant, the learned counsel for the respondents submits that the impugned orders do not call for interference supporting the impugned orders made ⁱⁿ _^ his submissions. In view of the submission made by the learned counsel for the applicant, we have perused the impugned orders passed by the respondents particularly that of the Appellate Authority dated 24.11.2006, with reference to the ground taken by the applicant we are *prima facie* of the view that the impugned order passed by the Appellate Authority is not a speaking order, having regard to the fact that the applicant has pleaded in detail the facts and the grounds in support of his grievances in the Appeal Memo, were not considered while passing the order, the Appellate Authority has stated that I have carefully examine the representation of the



appellant, appeal, punishment order and other connected documents, by saying so no materials are forthcoming or the reasons for the decision, and as such the Appellate Order is not a speaking order as the Appellate Authority has not taken into consideration the entire material on record and, as such, the same is unsustainable in law, and the same is liable to be set aside. It is well settled principle of law that the Order shall contain the reasons, the Hon'ble Supreme Court in the case of State of Haryana vs. Ramesh Kumar reported in All India Service Law Journal 2009 (2) page 358 held in para-7 as follows: -

"7. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union, 1971 (1) All E.R. 1148 observed "The giving of reasons is one of the fundamentals of good administration'. In Alexander Machinery (Dudley) Ltd. v. Crabtree, 1974 LCR 120, it was observed. "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

The learned counsel for the applicant has relied upon the following decisions: -

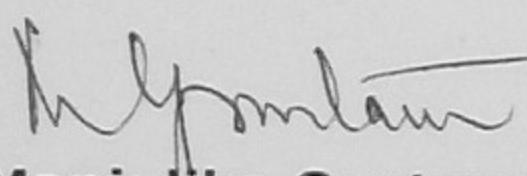
1. *J.M. Makwana Vs. U.O.I. & ors (2002 [1] ATJ 283*
2. *C.N. Harihara Nandan Vs. Presidency Post Master, GPO & Ors. [1998 (8) ATC 673]*
3. *J.P. Singh Vs. U.O.I. & Ors decided by Allahabad Bench of CAT on 02.04.2002 in O.A. No. 923 of 1999.*



As we are remanding the matter to the Appellate Authority, and as such, the above decisions relied upon by the applicant are not considered at this stage.

6. In view of the above, the applicant has made out a case for grant of the relief and accepting the contentions of the applicant, rejecting the contentions of the respondents, we pass the following order: -

"The O.A. is partly allowed, the impugned order of the Appellate Authority dated 24.11.2006 (Annexure A-2) is quashed and the matter is remitted back to the Appellate Authority to pass a fresh and speaking order in accordance with law within a period of two months from the date of receipt of a copy of this Order. All other contentions of the parties are left open."


[Manjulika Gautam]
Member 'A'


{Ashok S. Karamadi}
Member 'J'

/M.M/