

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, DELHI

AHMEDABAD BENCH

O.A No. 288/88
TAX NO.

198

DATE OF DECISION 26.4.1991

Shri Ganpathbhai Jagjivandas Rana Petitioner

Mr. J.C. Sheth Advocate for the Petitioner (s)

Versus

Union of India & Anr. Respondent

Mr. P.M. Raval Advocate for the Respondent(s)

CORAM .

The Hon'ble Mr. P.H. Trivedi : Vice Chairman

The Hon'ble Mr. R.C. Bhatt : Judicial Member

JUDGMENT

(W)

Shri Ganpathbhai Jagjivendas Rana,
Working as Mail Overseer,
Hansot, Bharuch Division,
Hansot. Dist. Bharuch.
(Advocate: Mr.J.C.Sheth)

: Applicant

Versus

1. The Union of India
Ministry of Communication,
Department of Posts,
to be served through:

Member,
Postal Service Board,
Dak Tar Bhavan,
Parliament Street,
New Delhi.

: Respondent

(Advocate: Mr.P.M.Raval)

O R D E R
O.A./288/88

Date: 26.4.1991

Per: Hon'ble Mr. P.H.Trivedi

: Vice Chairman

Heard Mr.Udaya Shastri for Mr.J.C.Sheth and
Mr.M.R.Raval for Mr.P.M.Raval, learned advocates for the
applicant and the respondents.

2. In this application under Section 19 of the Administrative Tribunals Act, 1985 the petitioner seeking the relief of setting aside the order of penalty at Annexure A/2 and the appellate order at Annexure A/3 dated 15.7.1985 and 25.8.1986 and the penalty for which the petitioner has held guilty of negligence which played a major part in facilitating the fraud and for which withholding the next increment for two years without cumulative effect was imposed by the disciplinary authority and appeal against which was rejected by the appellate authority. The main plead canvassed by the learned advocate for the petitioner before us is that although the applicant had submitted what he terms as representation in answer to the charges was not taken into consideration by either the disciplinary authority or the appellate authority. The reason for which representation or answer to the charges not having been made available was that it was submitted through the officers who did not forward the same. There is no dispute that there was no



representation before the disciplinary authority or the appellate authority and that without it the impugned orders have been passed. We invited learned advocate for the applicant to show us the memorandum of charges forwarded by the letter calling upon the applicant to give reply to them containing his defence but he has not produced such a letter or memo of charges and only selected the statement of imputations which he has annexed as A/1. Without such a letter and memorandum of charges it is not possible to ascertain which authority called upon the applicant to answer the charges and whether there was any statement therein that such an answer to the charges had to be forwarded through any other or superior officers named therein, in which case the petitioner might have any ground to plead in view of such a direction he had done all that he needed to do for forwarding his answers to charges to be done by the officer so designated and for the failure of such an officer if his statement of reply to the charges was not to be considered by the disciplinary or the appellate authority he should not have been punished. Moreover, such a letter or memorandum is not forthcoming and there is no averments regarding it either in the pleadings or in the submissions in bearing. We do not find that the absence of the representation has been overlooked. In the order of the disciplinary authority or the appellate authority's order it is stated clearly as follows:-

"Since no representation has been received from Shri G.J.Rana, M.O. Hasot, it is presumed that the charges are accepted by him and that he has nothing to say in the defence".

In the appellate authority's order it is stated as follows:-

"As seen from the punishment order the appellate had not replied to the chargesheet and hence the disciplinary authority proceeded against him ex parte. In his appeal he has said that he submitted his representation the SPOs

(6)

Bharuch through the SPM Ilav who is also a subsidiary offender in this case. The mail overseer is subordinate to the SDI Ankleshwar, and he should have furnished the representation through SDI Ankleshwar and not through SPM Ilav. Hence his contention is not acceptable".

3. At any rate as seen from the order of the appellate authority the applicant had an opportunity to urge that this representation was filed but not considered and that plea has been fully examined and reasons for rejecting the same have been given. In the circumstances, we fail to notice any lacuna or defect in the proceedings either at the stage of the order of punishment or at the appellate stage and find no ground therefore for interference with the order of the disciplinary authority or appellate authority. The learned advocate for the applicant states that even at this stage a direction should be issued to these authorities to consider his representation. This is something he should pursue on his own. We are sure that the concerned authorities will dispose of any petition he may make on his own merits.

4. We find no merits in the petition and reject the same. There shall be no order as to costs.

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(R.C.Bhatt)
Judicial Member

Dnyan
(P.H.Trivedi)
Vice Chairman