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2. At the relevant time the applicant was holding the charge ~~as~~^{of} Branch Postmaster of Cherupalli Branch Office in account with Dungalipali S.O. Proceedings under rule 14 of the C.C.S. (C.C.A.) Rules, 1965 were initiated against him through a Memo dated 2.7.87 which he did not reply despite reminders from the disciplinary authority. An enquiry was held. The disciplinary authority who unhesitatingly agreed with the findings of the Enquiry Officer inflicted the punishment of compulsory retirement on the applicant. The applicant preferred an appeal to the appellate authority and the appeal was rejected. The applicant seeks direction from this Tribunal to quash the order of punishment (A-2) and the rejection by the appellate authority of his appeal (A-4). He also seeks a direction to the respondents to treat him as continuing in service as if there was no proceeding, with all consequential benefits flowing thereof.

3. The prayer of the applicant is opposed by the respondents. They have contended that the charges levelled against the applicant have been fully established after due process of enquiry and that the appeal was also rejected after due consideration. It is their point that the charges which are grave in nature have been fully established and there is no room for interference with the order and that his prayer should be rejected.

4. We have examined the case and heard the learned counsels for the applicant and the respondents. The main point of the applicant is that the lapses on his part were

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such that it would not warrant action under rule 16 even let alone under rule 14 of the C.C.S. (CCA) Rules. During hearing, it was submitted -

- a) that a copy of the enquiry report was not furnished to the applicant before the punishment order was passed; and
- b) that he was not given a hearing by the appellate authority before his appeal was rejected.

6. Taking up the issue of enquiry report, we find that the Full Bench judgment in the case of Premnath K. Sharma vrs. Union of India and others reported in 1983 (3) SLJ 449 (CAT) was to cover a situation that arose in the light of amendment to Article 311 of the Constitution and Article 311 speaks only of three major penalties, namely reduction in rank, removal and dismissal. The punishment of compulsory retirement is not covered by the Article 311 both before and after the amendment. As such, we are of the opinion that the Full Bench judgment is not applicable to this case where the punishment happens to be that of compulsory retirement, even though that is more stringent than reduction in rank which is covered by Art. 311.

6. As regards the other aspect that the applicant was not given a hearing by the appellate authority, we are of the opinion that a hearing should be given to the applicant before the appeal is finally disposed of. We, therefore, remit this case back to the appellate authority with a direction that the appellate authority should give

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a hearing to the applicant and then pass a final order disposing of the appeal. Such disposal should be made within three months from the date of receipt of a copy of this judgment.

7. There is no order as to costs.

M. S. Eup
..... 15-5-80.

MEMBER (JUDICIAL)

R. B. Subramanian
..... 15/5/80

MEMBER (ADMINISTRATIVE)

