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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH

OA NO. 532/1994.

This 12th day of July, 2000.

CORAM: HON'BLE MR. SOM NATH SOM, VICE CHAIRMAN.
HON'BLE MR. JASBIR S. DHALIWAL, MEMBER (J)

Subodh Chandra Padhi
Sub Post Master, Dahamunda
At/P.O. Dahamunda, Distt. Balasore.

.....Applicant.
(By:

Versus

1. Union of India represented through
Secretary to the Govt. of India
Dept. of Posts, Dak Bhawan, New Delhi.,.
2. Chief Post Master General
Orissa Circle, Bhubaneswar
At/P.O. Bhubaneswar, Distt. Khurda.
3. Director of Postal Services
Circle Office, Orissa Circle
Bhubaneswar, At/P.O. Bhubaneswar
Distt. Khurda.
4. Superintendent of Post Offices
Balasore, At/P.O. Balasore
Distt. Balasore.

....Respondents.

(By:

O R D E R
(Hon'ble Mr. Jasbir S. Dhaliwal, Member (J))

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Applicant, Shri Subodh Chandra Padhi, has filed the OA pleading that while working as Sub Post Master, Dahamunda, Balasore, he was charge sheeted on the allegations that he had kept shortage in the stamp advance to the tune of Rs. 43.85 paise on 4.9.91 out of Rs. 100/- and that he had removed postage stamp worth Rs. 183.21 paise from various articles posted for despatch. He submitted his reply (Annexure A/2) on which the departmental enquiry was conducted. He was found guilty on the charges levelled against him and a punishment of with-holding of one increment for a period of one year without

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cumulative effect was imposed (Annexure A/3). He filed an appeal against the same on which the Director, Postal Services increased the punishment of with-holding of increment for a period of three years without cumulative effect. He challenges the order of disciplinary authority (Annexure A/3) and the appellate authority (Annexure A/4) with a prayer to quash the same. He pleads that both these orders have been passed without following the principles of natural justice and without adhering to the provisions of Rule 16 of CCS (CCA) Rules. He further pleads that the punishment imposed is very harsh and not commensurate to the gravity of charges levelled.

2. Respondents have filed a detailed reply pleading that the charge sheet was issued on physical verification carried out and the allegations made in the charge sheet were proved in accordance with the rules. The applicant was found to have removed the postage stamps from various articles and had detained three articles which should have been sent out. On asking to explain, he gave the reasons that the stamps have been removed from the envelops by his sons. Punishment was awarded by Annexure A/3 and Director, Postal Services (appellate authority) formed an opinion that the misconduct was serious. A show cause notice was issued to the applicant and after receiving a representation from him on the point of enhancement of punishment, an order at Annexure A/4 was passed. No rejoinder has been filed.

3. We have heard the learned counsel for the parties and examined the material on record.

4. Even though vague averment has been made that enquiry was not conducted in accordance with the provisions of Rule 16, no specific instance has been given as to how any provision of this rule has been not followed. Apparently, charge memo was issued under Rule 16 of CCS (CCA) Rules which is for minor penalty, yet applicant has been afforded all the

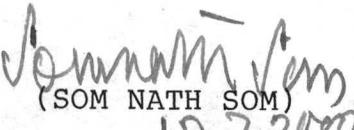
opportunities in the proceedings. As far as adherence of principles of natural justice is concerned, there is no averment that these were not adhered to during the course of proceedings. From the record, we find that appellate authority had come to the conclusion that the misconduct conducted by the applicant was of serious nature and he should have been proceeded against under Rule 14 for imposition of a major penalty. A notice was given to the applicant in exercise of powers under Rule 29 of CCS (CCA) Rules, 1965 and after considering his representation, the punishment was enhanced, though still a minor penalty.

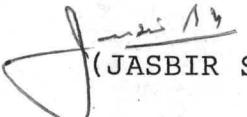
5. At this stage, learned counsel for the applicant stated that under Rule 29, the revising authority, which was appellate authority in his case, could not have passed the order. We have examined the provisions of Rule 29 read with rule 27. Clause 1(v) very clearly provides that the appellate authority within 6 months of the date of the order proposed to be revised can call for the record, if the appeal is pending before him or if no appeal has been preferred or from an order against which no appeal is permissible under the law, can at any time call for the record of any enquiry and revise any order made. It is not in dispute that the appellate authority had examined the record within 6 months of the appeal filed by the applicant and decided to enhance the punishment. Under this rule, the appellate authority can either confirm or revise or enhance a penalty imposed on a Govt. servant. The contention of the applicant that no decision can be taken for enhancement of penalty is found against the provisions of the rule itself. Even under Rule 27(2) (iv), it has been specifically provided that even under Rule 16, an order for imposing an enhanced penalty should be passed if such person has been given a reasonable opportunity of making a representation against such proposed enhanced penalty. thus,

we find that the orders at Annexures A/3 and A/4 are in consonance with the rules.

6. On the contention of the applicant that the punishment is harsh and disproportionate to the gravity of charges, suffice it to say that from the charges proved against the applicant, the appellate authority had recorded that it was so grave that he should have been proceeded against for major penalty. We agree with the appellate authority. Considering that applicant had put in service of 30 years, a lenient view has been taken. The penalty is minor in nature which was without any cumulative effect. Even otherwise, the Courts interfere with a quantum of penalty only if it is found to be shocking to the conscience of a court and which a reasonable and rational person may not impose on the given allegations of misconduct. We find nothing shocking in the penalty imposed.

7. For the reasons discussed above, we find no merit in the OA and the same is accordingly dismissed.


(SOM NATH SOM)
12.7.2000
VICE CHAIRMAN


(JASBIR S. DHALIWAL)
MEMBER (J)

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