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O.A. 352/95

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
		<p><u>5. ORDER DT. 4.X.2001.</u></p> <p>Learned counsel for the Applicant Shri AC Mohanty is absent. There is also no request for adjournment. In this case pleadings have been completed long ago. In view of this it is not possible to drag on the matter indefinitely, more so in the absence of any request for adjournment. We have therefore, heard Shri A.K. Bose, learned Senior St. Counsel appearing for the Respondents and have also perused the records.</p> <p>In this Original Application the applicant has prayed for quashing the order of punishment at Annexure-4. Respondents have filed their counter opposing the prayer of applicant. No rejoinder has been filed. For the purpose of considering the petition it is not necessary to go into too many facts of this case. The admitted position is that while the applicant is working as Overseer mails under Sub Divisional Inspector, Aska, minor penalty proceedings were initiated against him in memo dated 17.3.93 (Annexure-1). Applicant denied the statement of imputation. Disciplinary Authority after considering the explanation imposed upon him punishment of stoppage of one</p>	<p>one notice copy not filed For orders Pl. 13/7/95 Regr.</p> <p>Order dt. 14.7.95</p> <p>None appears. One week time is granted to file requisite copy. Registrar</p> <p>Copy of notice not filed yet. For orders Pl. 20/7/95 Regr.</p> <p>Order dt. 21.7.95</p> <p>None appears. One week time is allowed to file requisite copy. Registrar</p> <p>Requisite not filed. For further orders Pl. 25/7/95 Regr.</p>

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		<p>increment of one year without cumulative effect. This impugned order dated 30.9.93 is at Annexure-4. It further appears that applicant's next increment fall due on 1.5.1994 and the applicant was due to retire on 31.7.1994. In view of this, the Appellate Authority while considering the appeal of applicant reduced the punishment of stoppage of one increment for one year to three months. Thus, the applicant's increment fell due on 1.4.1994 was stopped till 31.7.1994 when he superannuated from service. In the statement of imputation issued to applicant it has been stated that the EDBPM, Bhamasiali BO had misappropriated maternity value of RD Account No. 26730 of Rs. 1630/- standing in the name of Tilatama Samala and an FIR was to be filed in Buguda police station on 11.6.93. The Supdt. of Post Offices, Disciplinary Authority, accompanied by Shrisanjaya Mohapatra, SDIP Aska East sub division had been to Buguda for the purpose of filing FIR. They came across the applicant in Buguda Town and orally ordered him to pay a visit to Bhamasiali BO and to take over charge of cash stamp and stock articles of Bhamasiali BO but the applicant did not go there and</p>	<p>Order dt. 28.7.95</p> <p>One week time is granted to file requisite as last chance. None appears.</p> <p>Registrar</p> <p>Requisite not filed yet for further orders pl.</p> <p>3/8/95</p> <p>Order dt. 4.8.95</p> <p>None appears. Requisites not filed in spite of several adjournments.</p> <p>Place before Bench for further orders.</p> <p>Registrar</p> <p>One copy of notice not filed as requisite. Several chances given to petitioner's counsel. None appears.</p> <p>For orders pl.</p> <p>7/8/95</p> <p>Bench.</p> <p>Adj. to 16.8.95</p> <p>14/8</p> <p>Bench.</p>

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		<p>take charge of the post of EDBPM, Bhamasiali.</p> <p>In view of this, it has been alleged that he has deliberately violated the orders of his superior authority. Applicant in his explanation has stated that according to the tour diary, on 11.6.1993 he was at Gouriabaroda BO and Motabadi BO and he was not at Buguda. He controverted the fact that he was directed to proceed to Bhamasiali BO. He has also stated that his tour diary for that day has also been approved. It can not be said that he was at Buguda on that day. On the above ground the applicant has challenged the order of punishment.</p> <p>Law is well settled that in the disciplinary cases, the Tribunal does not act as Appellate Authority and can not substitute its findings in place of the findings arrived at by the disciplinary Authority and Appellate Authority. The Tribunal can interfere only if there has been violation of principles of natural justice or if reasonable opportunity has not been given, or if the findings are based on no evidence or are patently perverse. In the instant case, the applicant has not stated that he has not been allowed reasonable opportunity. As a matter of</p>	<p>Regis. not filed AD to 21.8.95 Bench. Order no. 4 dt. 21.8.95 Copy of appln. filed today. Hence notice to all Respts may be sent by regd. Ad Post. 21.08.95 50(9) Counter not filed. ADs return except from R-3. For orders Pl. 25/9/95 order dt. 29.9.95 Await A.D. Put up after Pujavacation. Registrar Counter copy not served. Patra Bench 3/5</p>

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Counter filed.
For hearing.
Patra 31/7 Bench

Free copy of
the order dt-4.10.01
given to the
both counsel.

Patra 18/10/01
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his explanation though submitted beyond time was taken into consideration by the disciplinary Authority. The whole question now boils down to the fact as to whether on 11.6.1993 the applicant was orally directed to proceed to by the Supdt. of Post Offices. Applicant has denied this but the Disciplinary Authority in his order at Annexure-4 has stated that the Supdt. of post Offices, directed the applicant in presence of two other persons and on that basis it has been held that the applicant was actually directed to proceed to Bhamasiali and he has violated the order. The Appellate Authority has also come to the finding that the stand of applicant is based on falsehood and ~~soften~~ ^{only the page of June} ~~case~~. In view of this it is not possible to accept the contention of applicant that he was not directed to proceed to Bhamasiali. This contention is accordingly rejected.

The second contention of the applicant is that in Govt. all orders have to be given in writing and he is not obliged to carry out the oral order. This is not legally correct. ~~as~~ ^A superior authority can orally direct a subordinate authority to do or not to do some work and it is not possible in each and every cases, such order should be given in writing. This contention is also rejected.

In view of our above discussions, we hold that the applicant is not entitled to the reliefs claimed by him in this O.A. which is accordingly rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHIEF CLERK