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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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Date of order : 12.02.2001.

O.A.NO. 23/1998

Bhagwan Das S/o Shri Dhanna Das, aged about 44 years, R/o Harkhanio-ka-Mohalla, Desnok Dist. Bikaner, (Raj), last employed on the post of Postal Assistant in Postal Department, Nokha PO Bikaner.

.....Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Communication, (Department of Post), Dak Bhawan, Ashoka Road, New Delhi.
2. The Director Postal Services, Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Offices, Bikaner Division, Bikaner.

.....Respondents.

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CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

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Mr.J.K.Kaushik, Counsel for the applicant.

Mr.Vinit Mathur, Counsel for the respondents.

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PER HON'BLE MR.A.K.MISRA :

The applicant had filed this O.A. with the prayer that the impugned order dated 29.6.96, Annex.A/1, passed by the third respondent, inflicting the penalty of compulsory retirement and order of the appellate authority dated 3.2.97, Annex.A/2, rejecting the appeal of the applicant, be quashed with all consequential benefits.

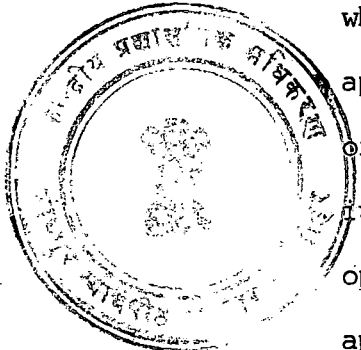
2. Notice of the O.A. was given to the respondents who have filed

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their reply to which no rejoinder was filed.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. Both the learned counsel for the parties have elaborated their arguments on the basis of the pleadings of the parties. It was contended by the learned counsel for the applicant that the applicant has been ordered to be compulsorily retired from service without following the rules relating to such inquiry. The decision of the disciplinary authority was passed ex-parte and the applicant was given no opportunity to defend himself. He has further argued that the appellate authority had rejected the appeal without appreciating the points raised by the applicant in his appeal. It was also argued by the learned counsel for the applicant that the applicant has been compulsorily retired keeping in view the order of the Magistrate by which benefit of Probation of Offenders Act, was extended to the applicant. Therefore, the orders of the disciplinary authority and that of the appellate authority, deserve to be quashed. On the other hand, it was argued by the learned counsel for the respondents that fair opportunity was given to the applicant for defending himself but the applicant had not filed any reply inspite of seeking time and consequently, impugned order was passed. The impugned order is not based on the judgement of the criminal court but was passed keeping in view the grave mis-conduct of the applicant. No violation of rules has been committed. The O.A, therefore, is devoid of merit.



5. We have considered the rival arguments. From the facts of the case, it appears that applicant had lodged a First Information Report against the Superintendent of Post Offices, Bikaner, Shri J.P.Garg, in the Police Station, Kot Gate, Bikaner, with the allegation that Shri Garg had injured the applicant and damaged his cycle by knocking the

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applicant by his scooter No. RSG-5534. On this report a case was registered against Shri Garg which on investigation was found false. Thereafter, a complaint was filed against the present applicant under section 182 IPC i.e. for instituting a false report which the complainant knew to be false. The witnesses in support of the said charge, were examined by the Court and during the trial the applicant admitted his guilt and was consequently held guilty of imputation and was released on probation. The action of the applicant in lodging a false report was taken to be grave mis-conduct by the departmental authorities. The applicant was, therefore, served with a Notice to show cause as to why action to dismiss him from service be not taken under Rule 19 of the CCS (CCA), Rules, 1965. On receipt of this notice, the applicant sought time to file reply but did not file any reply. Discussing these facts the applicant was held guilty of grave misconduct and was ordered to be compulsorily retired from service which the applicant has now challenged before us. In our opinion, the applicant was given a reasonable opportunity to show cause and as per his request, the inquiry was adjourned to 28th June, 1994. The intimation relating to the adjourned date was given to the applicant by registered letters sent to him at his notified addresses which were returned unserved on account of applicant being not available. The applicant had not filed any reply to the show cause notice and had also not attended the hearing of the inquiry. For this, the applicant has to thank himself only. Having been granted reasonable opportunity by the authorities, the applicant cannot now be heard to say that he was not granted reasonable opportunity. Apart from this, the removal of the applicant from service is not found to be based on his conviction in the criminal case under section 182 IPC. It was rather on the ground of his grave mis-conduct. The grave mis-conduct of the applicant is quite apparent. From the facts of the criminal case, ^{it is clear that} the applicant being a subordinate, had instituted a false report against his superior that he was knocked down by the shooter driven by Shri J.P.Garg. This complaint, to our mind,

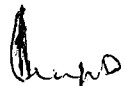


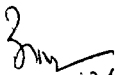
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was made by the applicant only to keep the Superintendent, Post Offices, under his thumb by hooking him in a false criminal charge. This is a grave act of in-discipline on the part of a subordinate. Such irresponsible behaviour is difficult to be ignored and technicalities of procedure cannot be allowed to be instrumental in encouraging such an in-discipline. In view of this, we do not find much force in the arguments of the learned counsel for the applicant, that he has been punished without sufficient material on record and non observance of rules. In our opinion, the O.A. is devoid of any merit and deserves to be dismissed.

6. The O.A. is, therefore, dismissed, with no orders as to cost.


(A.P.NAGRATH)
Adm.Member


(A.K.MISRA)
Judl.Member

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J. J.

Part II and III destroyed
in my presence 21-3-07
under the provision of
section 10 of the
ordinances 19-1-07

Section officer (Records)