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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....
Date of Order : 3.8.2001.

O.A.NO. 292/1999

Satya Narain Verma S/o Shri Chand Malji, aged about 48 years, R/o Infront of Old Post Office, Naya Shehar, Kuchaman City, Distt. Nagaur, Last employed on the post of Postman at Jaswantgarh in District Nagaur.

.....Applicant.

VERSUS

1. Union of India through Secretary to Govt. of India, Min. of Communication, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.

2. The Member (Personnel), Postal Services Board, Dak Bhawan, Sansad Marg, New Delhi 110 001.

3. Director Postal Services, O/O the Postmaster General, Rajasthan Western Region, Jodhpur - 342 003.

4. The Superintendent of Post Offices, Nagaur Division, Nagaur.

.....Respondents.

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Present :

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

Mr. Vinit Mathur, Counsel for the respondents.

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C O R A M :

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

ORDER

PER MR.JUSTICE B.S.RAIKOTE :

In this case, applicant, Satya Narain Verma, has prayed for quashing of Annex.A/1 Chargesheet dated 30.3.1995 and Annex.A/2 the order of compulsory retirement dated 29.3.1996 and also the order of the appellate authority Annex.A/3 dated 3.3.1997 and the order of the revisional authority vide Annex.A/4 dated 5.10.1998.

2. The learned counsel for the applicant contended that the appellate authority has not exercised his jurisdiction in accordance with law. He submitted that the appellate authority is in error in dismissing the appeal on the ground of limitation only. He also submitted that the order of the disciplinary authority is wholly without jurisdiction and without following any procedure.

3. We have perused the order of the appellate authority and find that the appellate authority dismissed the appeal only on the ground of limitation and the same has been confirmed by the revisional authority. The appellate authority has not given as to how many days the appeal was barred by time except stating that this application is barred by limitation and accordingly liable to be dismissed. It is a non speaking order. However, the revisional authority vide order Annex.A/5 dated 5.10.1998 confirmed the order of the appellate authority by noting the dates on which the applicant was served with the order of the disciplinary authority. He stated that the punishment order dated 29.3.1996 was served to the petitioner vide

registered A.D. letter dated 11.4.1996 and he was not found available at Jaswantgarh Post Office. Thereafter, the said registered letter was sent to his residential address where he was asked to take the said order in the presence of a witness but the said registered letter was returned back on 8.5.1996 stating that the addressee has refused to take the delivery of the letter. In these circumstances, the order of penalty should be taken as having been communicated to the applicant on 8.5.1996. The revisional authority further added that the punishment order was sent to the SDI (P) Makrana and the same was pasted on the main gate of the residence of the petitioner at Kuchaman City in presence of two witnesses on 14.5.1996, therefore, the order of compulsory retirement has taken effect w.e.f. 14.5.1996 atleast. Thereafter, the appeal was submitted on 23.9.1996 after a period of 45 days reckoned from 14.5.1996 and accordingly, the same was correctly rejected by the appellate authority. Consequently, he dismissed the revision petition.

4. But, the learned counsel for the applicant relying upon Annex.A/7 letter dated 30.7.1996 addressed by the applicant contended that the applicant has specifically stated before the authorities that he has not received the penalty order and a copy of the penalty order may be furnished to him so that he can prefer an appeal. He also relied upon Annex.A/2 dated 6.8.1996 which is the letter of the Superintendent, Post Office, Nagaur, which reads as under :-



"भारतीय डाक विभाग

विषय:- अनिवार्य सेवा निवृत्ति के पश्चात् आप ह्यारा इयूटि पर लेने की कथित पार्धना

आपका पत्र दिनांक 30.07.96 के प्रस्तंग में लेख है कि आपकी अनिवार्य सेवा निवृत्ति किए जाने की जानकारी होते हुए भी आप द्वारा छ्यूटि पर लेने बाबत पत्र व्यवहार का कोई औचित्य नहीं है। सेवन कागजाल बनाने में सहयोग करें। अन्यथा देरी के लिए आप स्वयं जिम्मेदार होंगे।

फिर भी इस कार्यालय के ज्ञापन सं. एफ/12-2/94-95
दिनांक 29.03.96 जिसके तहत आपको अनिवार्य सेवा निवृत्ति का दण्डा-
देश दिया गया था, की एक छाया प्रति द्वितीय संलग्न कर भेजी जा

रही है।
सं. दण्डादेश सं.एफ/12-2/94-95 दि. 02.9.3.96 की अधीक्षक डाकधर
छात्य प्राप्त नागौर राज. 341 001 "
Recd. on 9.8.96
Deliver at Kuchaman City

Recd.on 9.8.96
Deliver at KuchamanCity
From the reading of the above letter, it is clear that in
reply to Annex.A/7 letter given by the applicant the
Superintendent, Post Office, Nagaur, stated that vide order
dated 29.3.1996 the applicant has been compulsorily retired,
however, one more photo copy of the same has been sent to
applicant
the/ alongwith the letter. The counsel for the applicant
stated that as per note at the bottom on Annex A/2 it is clear that
the same was
received on 9.8.1996 . He stated that thereafter, he filed
an appeal on 23.9.1996 within 45 days.

5. From the reading of the order of the revisional

authority, we find that the appeal was presented on 23.9.1996 and it is the contention of the applicant that after receiving the photo stat copy of the order under Annex.A/2 on 6.8.1996, he has filed an appeal in time. The applicant has denied his earlier alleged refusal on 8.5.1996 and he also denied his knowledge of pasting the memo on the door of his house at Kuchaman City on 14.5.1996 in the presence of two witnesses. If the department wanted to rely upon on the alleged statement made by the postal authorities on 8.5.1996 that the addressee refused the letter, and rely upon the pasting of the memo on the door of the house of the applicant on 14.5.1996, they should have taken an affidavit from the alleged witnesses and that they have not done. The case of the applicant is that those two proceedings dated 8.5.1996 and 14.5.1996, are fabricated against him. Without expressing any opinion as to the allegation and counter allegations made by the parties, we think that it is an appropriate case for condoning the delay, having regard to the fact that the applicant has been imposed a major penalty of dismissal and an opportunity before the appellate authority would meet the ends of justice. Accordingly, we pass the order as under :-

The Delay in preferring the appeal before the appellate authority is hereby condoned and the judgement of the appellate authority Annex.A/3 is set aside. The appellate authority is hereby directed to hear the applicant and dispose of the appeal on merits in accordance with law. The O.A. is accordingly disposed of in terms of this order.

6. No order as to costs.

Gopal Singh
(GOPAL SINGH)
Adm. Member

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RJ
(JUSTICE B.S.RAIKOTE)
Vice Chairman