

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

Date of Decision: 05.12.2001

OA 142/99

Bhanwar Lal, EDBPM, Village Agunta (Kalia), District Nagaur.

... Applicant

V/s

1. Union of India through Secretary, Min.of Communication (Deptt of Posts), New Delhi.
2. Suptd.of Post Offices, Nagaur.
3. Director, Postal Services, Rajasthan, Western Region, Jodhpur.

... Respondents

CORAM:

HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.Vijay Mehta

For the Respondents

... Mr.Vinit Mathur



O R D E R

PER HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN

Applicant, Bhanwar Lal, who was EDBPM, Village Agunta (Kalia), District Nagaur, has been removed from service after due inquiry by the disciplinary authority, by order dated 30.6.97 (Ann.A/1). He preferred an appeal, which has been dismissed by the Director, Postal Services, Rajasthan, Western Region, Jodhpur, (Respondent No.3).

2. It is accepted at all hands that the applicant was not given an opportunity of hearing by the appellate authority. Learned counsel for the applicant urged that the applicant has been seriously prejudiced by denying him an opportunity of hearing as he could explain the

circumstances in which the shortage of money had occasioned. In support of his contention, the learned counsel for the applicant placed reliance on the decision dated 12.2.2001, rendered by this Bench in OA 211/96, Ram Autar Chowdhary v. Union of India and Others. The learned counsel for the respondents contended that a contrary view has been taken by this Bench in a subsequent decision dated 19.9.2001 in OA 324/98, Mishri Mal Tanwar v. Union of India and Others. We have taken into consideration the observations made in the decisions aforesaid and find that they are not of universal application. There may be certain cases where personal hearing, though not demanded, may be necessary to meet the ends of justice. In the instant case, the gravamen of the charge against the applicant is that he, in his capacity of EDBPM, was found to have squandered the public money inasmuch as instead of Rs.5108.85, he was found to be in custody only Rs.400/- and in this manner, there was a shortage of a sum of Rs.4658.85. We find that during the course of inquiry the applicant has moved an application dated 12.3.97, copy of which is enclosed at Ann.A/2 of the OA, for summoning of certain slips to ascertain whether the shortage has occurred on account of certain payments. This application was rejected. Learned counsel for the applicant further pointed out that in case the applicant was given an opportunity of personal hearing, he would have been in a position to explain the circumstances in which the shortage came into being and perhaps the appellate authority, after taking into consideration the explanation on personal hearing of the applicant, may have reached the conclusion that the extreme penalty of removal from service was not warranted.

3. In the present case, we are of the view that the appellate authority should have given an opportunity of hearing to the applicant, even though the applicant did not make a request for it. The plea that



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the applicant has been seriously prejudiced on account of denial of such an opportunity cannot be said to be without force. In our opinion, in this case it was necessary for the appellate authority to afford an opportunity of hearing to the applicant.



4. In the light of the above facts, we dispose of this application with the direction that the appellate authority shall rehear the appeal and decide the same afresh after giving a reasonable opportunity of hearing to the applicant. The applicant shall appear before the appellate authority for personal hearing on the date which may be intimated to him by registered post by the authority concerned within a period of 45 days from today. No order as to costs.

Gopal Singh
(GOPAL SINGH)

MEMBER (A)

O.P. Garg
(JUSTICE O.P. GARG)

VICE CHAIRMAN

Paul
K. [unclear]
7/14

Copy

10/12

Part II and III destroyed
in my presence on 2/5/07
under the supervision of
section officer (1) as per
order dated 1/3/07

Section officer (Record)