

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

16
Date of Decision : 09.04.2002

O.A. No. 141/2001.

Gopal Lal s/o Shri Krishna Chandra aged 39 years, r/o Vill. Sanganer District Bhilwara Ex-Extra Departmental Sub Post Master, Sanganer District Bhilwara.

... APPLICANT.

versus

1. Union of India through the Secretary to the Government, Ministry of Telecommunication (Dept. of Posts), New Delhi.
2. Superintendent of Post Offices, Bhilwara.
3. Director, Postal Services, Southern Region, Ajmer.

... RESPONDENTS.

Shri Vijay Mehta, counsel for the applicant.
Shri S. K. Vyas, counsel for the respondents.

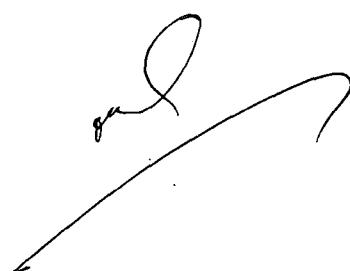
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Hon'ble Mr. Justice O. P. Garg, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :
(per Hon'ble Mr. Justice O. P. Garg)

The applicant was an Extra Departmental Sub Post Master, posted at Sanganer in District Bhilwara. A departmental enquiry was initiated against him and by the impugned order dated 30.09.1999 (Annexure A-1), he was removed from service by the competent authority. The applicant preferred an appeal, which was dismissed by order dated 12.06.2000 (Annexure A-12).

2. By means of this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order of removal from service as well as



27

rejection of his appeal. It is prayed that he may be reinstated in service with all consequential benefits.

3. A detailed reply has been filed by the respondents.

4. Heard Shri Vijay Mehta, learned counsel for the applicant, as well as Shri S. K. Vyas, learned counsel for the respondents.

5. The only point urged by the learned counsel for the applicant is that in view of the allegations made against the applicant and the quality of evidence led before the Enquiry Officer, the order of removal was not justified and therefore, the applicant had demanded an opportunity of personal hearing before the Appellate Authority so that he could clarify the position. Shri Vijay Mehta, learned counsel for the applicant, pointed out that in the memo of appeal the applicant made a specific prayer for availing an opportunity of personal hearing. The memo of appeal is Annexure A-11. In the prayer clause, the applicant has demanded an opportunity for personal hearing. Admittedly the appellate authority did not afford ~~an~~ an opportunity to the applicant.

6. Learned counsel for the respondents pointed out that the applicant was not ~~in any~~ manner prejudiced by not affording an opportunity of personal hearing by the appellate authority. He placed reliance on the decision of this Bench in the case of Mishri Lal Tanwar vs. U.O.I. & Ors. in OA No. 324/98, decided on 19.09.2001. Learned counsel for the applicant placed reliance on the two

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decisions of this Bench firstly in the case of Ram Avtar Choudhary vs. U.O.I. & Ors. in OA No. 211/1996, decided on 12.02.2001 and secondly in Bhanwar Lal vs. U.O.I. & Ors. in OA No. 142/99, decided on 05.12.2001, to support his contention that even if a pesonal hearing was not demanded, it may be necessary in certain circumstances, to reach the truth.

7. Learned counsel for the applicant made a reference to the statements of the various witnesses examined during the course of enquiry to point out that they have not supported the charges against the applicant and in any case if the applicant had been allowed a personal hearing by the appellate authority he would have been in a position to fortify his defence and can explain the circumstances in which the charges came to be framed.

8. After having heard the learned counsel for the parties we feel that it was a case fit enough in which personal hearing was necessarily required to be given by the appellate authority. Denial of such an opportunity of personal hearing has resulted in positive prejudice to the case of the applicant. Therefore, without diluting over the matter and touching the merits of the case, we feel that it would be in the interest of justice if the appellate authority is directed to give a fresh look to the appeal of the applicant after giving ~~him~~ an opportunity of personal hearing to him.

Final

19



9. The Original Application is allowed only to the extent that the order dated 12.06.2000 (Annexure A-12) passed in appeal shall stand set aside and the appellate authority shall decide the appeal afresh after giving a reasonable opportunity of personal hearing to the applicant. The appellate authority shall decide the appeal in the light of the above observations according to law, ^{on merit} uninfluenced by any observations made in this order, within a period of three months from the date of production of a certified copy of this order. No order as to costs.

Gopal Singh

(GOPAL SINGH)
Adm. Member

P. Garg

(JUSTICE O. P. GARG)
Vice Chairman

h/t
12/2
by

LSI
WPS
RCS

Part II and III destroyed
in my presence on 10.5.907
under the supervision of
Section Officer (1) as per
order dated 10.5.907
Section Officer (Record)