

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

\* \* \*

Date of Decision: 14.5.2002

OA 198/2001

Raghuveer Singh Solanki s/o Shri Devi Singh Solanki r/o Village Post Harsod, Tehsil Degana, Distt. Nagaur.

... Applicant

Versus

1. Union of India through Secretary, Department of Posts, Dak Bhawan, Parliament Street, New Delhi.
2. Post Master General, Western Rajasthan, Jaipur.
3. Supdt. of Post Offices, Nagaur Division, Jodhpur.

... Respondents

CORAM:

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

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

For the Applicant

... Mr.Kuldeep Mathur

For the Respondents

... Mr.Vinit Mathur

O R D E R

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

The applicant was a Postal Assistant (Dak Sahayak). He has been removed from service vide order dated 21.10.99 (Ann.A/7) by the competent authority. This order was challenged by the applicant by filing a departmental appeal, which has been rejected vide impugned order dated 12.6.2000 (Ann.A/1). It is in these circumstances that the applicant has approached this Tribunal by filing the present OA under Section 19 of the Administrative Tribunals Act, 1985.

2. The gravamen of the charge against the applicant is that in his capacity as Postal Assistant he has squandered public money to the tune of Rs.10,47,288.85. A departmental inquiry was held in the matter. The report of inquiry is before us and we have perused the same.

3. The learned counsel for the applicant challenged the manner in which the inquiry was conducted and the fact that the disciplinary authority had not afforded any opportunity of personal hearing to the applicant. A detailed reply has been filed. All the submissions made by the applicant in the OA have been repelled by the learned counsel for the respondents.

4. After having taken into consideration the seriousness of the allegations against the applicant and wading through the documents brought on record, we find that it is not a fit case in which we should interfere. In a spate of decisions, the Apex Court has expressed its displeasure for the re-appraisal of evidence and substituting its own findings by the Tribunal in the matters of departmental enquiry. The law is well settled that this Tribunal can not reappreciate, create evidence and substitute its finding to arrive at the conclusion that the charge has not been proved. In this connection, a reference may be made to the decisions of the Apex Court in the cases of State of Tamilnadu v. A. T.V. Venugopalan, (1994) 6 SCC 302, Union of India v. Upendra Singh, (1994) 3 SCC 357, Government of Tamilnadu v. A. Rajapandian, (1995) 1 SCC 216, Union of India v. B.S. Chaturvedi, (1995) 6 SCC 749, B.C. Chaturvedi v. Union of India, (1995) 8 JT (SC) 65 and Tamil Nadu & Anr. v. S. Subramaniam, AIR 1996 SC 1232.

5. The submission of the learned counsel for the applicant that the applicant was not given reasonable opportunity of personal hearing is also not sustainable for the reason that the disciplinary authority did afford him an opportunity of personal hearing but the applicant himself, for reasons best known to him, did not avail of the said opportunity. However, it transpires that the applicant with a view to coin a ground to challenge the order of the disciplinary authority has after the expiry of the date of personal hearing applied that since his father was ill he may be given another opportunity. The disciplinary authority was the best judge of the matter whether further time should be granted to the applicant for personal hearing or not. The fact remains that the disciplinary authority did afford an opportunity of personal hearing to the applicant, which the applicant himself failed to avail. The ground that no opportunity of personal hearing was granted to the applicant, therefore, also not available to him to challenge the impugned order.

6. In view of the seriousness of the established allegations against the applicant, we find that the order of removal was the only apt order which could be passed against the applicant.

7. In the result, the OA stands dismissed with no order as to costs.

*lmp*  
(A.P.NAGRATH)  
MEMBER (A)

*Op*  
(JUSTICE O.P.GARG)  
VICE CHAIRMAN

Part II and III destroyed  
in my presence on 12-1-07  
under the supervision of  
Station Officer ( ) as per  
order dated 14-5-07  
Station Officer (Records)

12-1-07  
W.C.S.

12-1-07  
C.J.S.