

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A No.269/1994

Tuesday, this the 19th day of April, 1994.

CORAM:

THE HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

THE HON'BLE MR.P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

T.Vasu,
Thekkeveetil Poyil,
Poonath P.O.,
Via. Neduvannoor,
Kozhikode.

.. Applicant

(By Advocate Mr.O.V.Radhakrishnan)
and Miss H. Bineetha

vs.

1. Sub Divisional Inspector of Post Offices,
Badagara North Sub Division, Badagara-673 101.
2. Superintendent of Post Offices,
Badagara Division, Badagara- 673 101.
3. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
4. Union of India, represented by its Secretary,
Ministry of Communications, New Delhi.
5. P.P.Gopalan Nambiar,
Inquiry Officer & Assistant Superintendent of Post Offices,
Badagara South Sub Division,
Badagara -673 101.

.. Respondents

(By Advocate Mr.V.B.Unniraj,ACGSC)

ORDER

CHETTUR SANKARAN NAIR(J),VICE CHAIRMAN:

Applicant challenges Annexure A10 order of the Disciplinary Authority, affirmed in appeal by Annexure A12 order. He was charged under three counts for mis-appropriating a sum of Rs.300/-, Rs.200/- and Rs.180/- in that order. PW 8 (in the inquiry) held a preliminary inquiry on the basis of which a charge was issued. The ad-hoc Disciplinary Authority by Annexure A7 report, found the charges. That finding was accepted by the Disciplinary Authority and then followed Annexures A10 and A12 orders.

2. Learned counsel for applicant submitted that refusal to supply a copy of the inquiry report by Annexure A5 order, violates the principles of natural justice. According to her, PW 8 is the person who made the preliminary inquiry and submitted a report. He figured as witness in the inquiry and his evidence was relied on by the 5th respondent in Annexure A7 enquiry report. It is alleged that PW 8 was biased against the applicant. PW 8 is a material witness and without his report, an effective cross-examination could not be made, submits counsel.

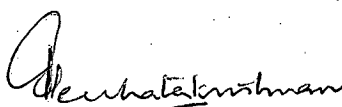
2. The preliminary inquiry report ordinarily has no significance as far as the charge or defence is concerned. A preliminary enquiry is held only for the purpose of satisfying the Disciplinary Authority whether there is a case to be proceeded with. If matters stood thus, the arguments of applicant would not merit serious notice. But in the instant case, as rightly pointed out by learned counsel for applicant, the report is not important by itself, but as a document made by an important witness (PW 8), it is necessary for effectively cross-examining him with reference to a previous statement. Evidence of a witness can only be tested by the fire of cross-examination, and an earlier statement or a record made by a witness will be of great value in making the cross-examination effective. Even Annexure R2(C), upon which reliance is placed by the Department, is to the effect that the reference to the preliminary inquiry report should be avoided and that if reference is made, it will be necessary to furnish a copy of the report to the delinquent official. We are of opinion that denial of the preliminary inquiry report (not as preliminary inquiry report, but as an earlier record made by PW 8) amounted to denial of a reasonable opportunity to cross-examine the witness. For that reason we quash Annexures A7, A10 and A12. The situation with which the

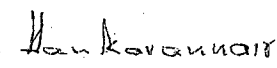
Supreme Court was concerned in Chandrama Tewari Vs Union of India (AIR 1988 SC 117) is entirely different. The preliminary inquiry report was not a piece of evidence in that case. Inquiring Officer did not rely on it. Hence failure to supply the report was not considered to be a violation of the requirements of natural justice.

3. It was also argued that, the provisions of Rule 14 (18) of the C.C.S (CCA) Rules were not followed. That Rule has no application to the case of an Extra Departmental Agents. But respondents will be well advised to question applicant regarding circumstances appearing against applicant, to enable him to explain them.

4. In the result we allow the Original Application and direct the competent authority to proceed with the enquiry after furnishing a copy of the preliminary report to applicant and after affording him an opportunity to cross-examine PW8. Enquiry proceedings will be completed within four months from today. Parties will suffer their costs.

Dated 19th April, 1994.


P.V.VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN