

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

ORIGINAL APPLICATION NO: 77 OF 2004

THIS, THE 17TH DAY OF MAY 2005.

**HON'BLE SHRI SHANKAR RAJU MEMBER (J)
HON'BLE SHRI S.P. ARYA MEMBER (A)**

Nissar Ahmed aged about 53 years S/o Sri Shamsuddin Khan, Gram Sawanpurwa Post Ujjainikala District Gonda.

Applicant.

BY Advocate: Shri A. Moin

VERSUS

1. Union of India through Secretary, Ministry of Post, Dak Bhawan New Delhi.

2. Director, Postal Services Gorakhpur Region Gorakhpur.

3. Superintendent of Post Offices, Gonda Division Gonda.

Respondents.

By Advocate: Shri Deepak Shukla for Shri Prashant Kumar

ORDER (ORAL)

BY HON'BLE SHRI SHANKAR RAJU MEMBER (J)

Heard the counsel.

2. An order passed on 6.11.2003 in OA No. 233/2002 upheld the punishment but on the proportionality and on the ground discrimination in award of penalty, the matter was remanded back to the appellate authority to consider the facts and quantum of default of similarly circumstanced and to re-determine the quantum of punishment and to pass an appropriate order in the light of the decision of the Apex Court in the case of B.C. Chaturvedi vs. Union of India, JT 1995(8) SC 65. It is trite law that Articles 14 & 16 of the Constitution of India

also apply in case of punishment which is discriminatory as held by the Apex Court in the case of Tata Engineering and Locomotive Limited vs. Jitender Prasad Singh & Anr., (2001) 10 SCC 530.

3. Learned counsel for the applicant states that others have also been dealt with on the same misconduct yet they have been awarded lesser punishment, which he has averred in para no. 4.20 of the OA. In response thereto, learned counsel for the respondents states that the case of one Shri Ghanshyam, who was directly involved and was dismissed, was deliberately suppressed by the applicant and in the matter of others, it is stated that whereas others were not alleged to have been associated with the Gang which dealt with bogus money orders, the applicant was instrumental and had helped the Gang stands on a different footing. As such, no discrimination is meted out to the applicant in the matter of punishment.

4. From the perusal of the order passed by the Director, Postal Services on 11.2.2004, we do not find any reasons for rejection. An administrative order specially when passed in the capacity of a quasi judicial authority *sina quo non* is also recording of reasons is not only gives fairness in the action but makes the order more transparent as the same is to be assailed by the aggrieved party. Recording of reasons is in consonance with the principles of natural justice.

5. In this view of the matter, finding no reasons recorded by the appellate authority, we have no hesitation to set aside the order with a direction to the respondents to pass a fresh order recording reasons as to how the applicant is differently situated from others in the matter of punishment, within a period of three months from the date of receipt of a copy of this order.

6. OA is accordingly partly allowed with no order as to costs.


(S.P. ARYA)
Member (A)


(SHANKAR RAJU)
Member (J)