

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCNOW BENCH LUCKNOW.

ORIGINAL APPLICATION NO: 606/2005

Lucknow this, the 7th day of July, 2006.

HON'BLE SHRI M. KANTHAIH MEMBER(J)
HON'BLE SHRI. P.K CHATTERJI MEMBER(A)

Brij Raj aged about 54 years s/o Sri Ex. Gramin Dak Sewak Mail Peon and Mail Deliverer B.P.O. Chorma (Mahmoodpur Semri) District Sultanpur R/o Village & Post Office Chorma District Sultanpur.

Applicant.

By Advocate Shri R.S. Gupta.

VERSUS

1. Union of India, through Secretary Department of Post Dak Bhawan, New Delhi.
2. Superintendent of Post Offices, Sultanpur.
3. Sub Divisional Inspector Kadipur, Sultanpur.

Respondents.

By Advocate Shri Azmal Khan.

ORDER

This O.A. has been filed on behalf of applicant Brij Raj Ex. Gramin Dak Sewak Mail Peon and Mail Deliverer Branch Post Officer District Sultanpur. In this O.A., the applicant has impugned the order dated CRF-2/01/2000-2001/Sultanpur i.e. opposite party No. 2. Vide this order, the applicant was removed from service.

2. The facts of the case are as follows. The applicant was appointed as G.D.S. Mail Carrer and Mail Deliverer Chorma (Sultanpur) since 24.6.1982. On 22.11.2000, the applicant was served with a charge sheet under Section 8 of E.D. Conduct and Service Rules 1964 vide order No. A/Chorma/D.P./EDMP/2000 alleging wrong payment of Vidya Ashram Bhiwandi M.O. No. 2903 dated 1.10.1999 for Rs, 500/- payable to Ram Swarup Verma Post

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Office Chorma (Semri) District Sultanpur. The Assistant Superintendent Post Officers Lalganj was appointed as Enquiry Officer who enquired into the allegations. He submitted an enquiry report a copy of which was forwarded to the applicant through Sub Divisional Inspector Kadipur (Sultanpur). Along with the copy of the enquiry report, the applicant was served a show cause notice No. A/Chorma/AP/EDMP/2004-2005 dated 3.12.2004.

3. After considering the enquiry report, the competent Disciplinary Authority i.e. Sub Divisional Inspector Kadipur (Sultanpur) passed orders on 7.2.2005 imposing the penalty of withholding of promotion of three years. Thereafter, the SPOs Sultanpur, the appellate authority of the applicant issued a show cause notice under Rule 19 of GDS Conduct and Service Rules 2001 proposing revision of penalty vide Memo No. CRF/2/01/2000-2001 dated /5/2005 in the show cause notice the appellate authority proposed to remove the applicant from service by enhancing the penalty of withholding of promotion to that of removal.

4. It is this, order of the appellate authority which has been assailed by the applicant and it is alleged to be in violation of the relevant rules i.e. Rule 19 of the GDS Conduct and Service Rules 2001. After completion of the pleadings both sides were heard. The learned counsel on behalf of the applicant, explained the provision of Rule 19 of GDS Rules. It was pointed that the purpose of the show cause was to offer the charged official an opportunity to say why the enhancement should not be imposed upon him. Therefore, it was necessary to also elaborate the reasons why the punishment was proposed to be enhanced. Unless, reasons are

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given in clear terms, it does not enable the charged official to offer cogent reason against him. A perusal of the show cause notice, which has been submitted by the applicant along with the C.A. shows that the Disciplinary Authority only proposed to enhance the punishment but the exact reasons for his proposal was not explained. Unless, this is provided it may be construed as not granting reasonable opportunity to the applicant to say why the proposed punishment was not justified. The learned counsel on behalf of the respondents could not refute this point with which conviction.

5. With this observation, it is ordered that the show cause notice issued by the appellate authority be cancelled and the order of removal issued by the appellate authority is set aside. The applicant may be reinstated with consequential benefits without any back wages for the period in which no duty was performed by him. With this order the petition is partly allowed. No costs.

Chatterji
(P.K. Chatterji)
Member(A)

Kanthaiah
(M. Kanthaiah)
Member(J)