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**Central Administrative Tribunal
Lucknow Bench, Lucknow.**

**Original Application No.120/2006
This they ^{01st} day of June 2009**

**HON'BLE SHRI M. KANTHAIAH, MEMBER (J)
HON'BLE DR. A.K. MISHRA, MEMBER (A)**

Vijai Pal, aged about 53 years son of Late Sumer, resident of Village and Post-Bhakuraha, District Sitapur (Posting at Branch Post Office Pisawan Head Post Office, Sitapur, District-Sitapur).

... Applicant.

By Advocate: Shri Suresh Sharma.

Versus.

1. Union of India through its Secretary Ministry of Postal Services, New Delhi.
2. Director, Postal Services, U.P. Lucknow.
3. Superintendent of Post Offices, Sitapur Mandal, Sitapur, Distt. Sitapur.
4. Enquiry Officer (Postal), 3/7/GC, Teli Tola, Faizabad-224001.

... Respondents.

By Advocate: Shri G.K. Singh.

ORDER

HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

The applicant has filed the OA with a prayer to quash the impugned dismissal order dt. 18.10.2005 (Ann-A-1) passed by respondent No.3 and for consequential benefits on the following grounds:

- (i). That the applicant has not committed any fraud and illegality in performing his duty during the year 1991 to 1998
- (ii). Without giving opportunity of hearing, the enquiry was conducted ex-parte.
- (iii). The impugned dismissal order is illegal, arbitrary and against the principles of natural justice.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that after conducting departmental enquiry against the applicant under Rule 10 of GDS (Conduct & Employment) Rules, 2001 on the charges of embezzlement of government money, he was removed from service with a reasoned order.

3. The applicant filed Rejoinder Affidavit, denying the stand taken by the respondents.


4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the applicant while working as Branch Postmaster Bakura, Sitapur during the year 1997-98, was involved in a Criminal case which was Regd. against the applicant in Crime No. 162/2000 under Section 409 IPC, alleging misappropriation of government amount and the said case is pending. Thereafter, the respondent authorities have initiated disciplinary action against the applicant under Rule 10 of GDS (Conduct & Employment) Rules, 2001 and basing on the ex-parte enquiry report submitted by the enquiry office, the disciplinary authority (Respondent No-3) imposed punishment of removal of the applicant from service. Ann-3 is the copy of enquiry report dt.10.9.2005.

7. Against the punishment of removal vide order dt. 18.10.2005 (Ann-A-1) passed by Respondent No-3 the applicant has filed this OA on the ground that no opportunity of hearing was given to him and documents also were not supplied to him and entire enquiry proceedings were conducted in ex-parte and further stated that he had not misappropriated any of the funds as alleged in the charges.

8. Against the order of punishment imposed by the Disciplinary authority (Respondent No.3), statutory appeal provision is there under Rule-13 (2) of GDS (Conduct & Employment) Rules, 2001, and without



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availing such opportunity, the applicant preferred this OA which is not at all maintainable under Section 20 of AT Act, 1985

9. In view of the above circumstances, without going into the merits of the claim of the applicant, he is directed to exhaust the statutory appeal as provided under GDS Rules and in case of delay in filing such appeal he is at liberty to move the same alongwith condone delay application which has to be considered by the appellate authority who should pass a reasoned order and with this direction the OA is disposed of. No order as to costs.

Amit 01/07/09
(DR. A.K. MISHRA)
MEMBER (A)

M. Kanthaiyah
(M. KANTHAIAH)
MEMBER (J)
01.07.09

Amit/-