

Central Administrative Tribunal Lucknow Bench Lucknow

O.A. No. 105/2007

Lucknow, this the ^{26th} September, 2008

Hon'ble Mr. M. Kanthaiah, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)

R.S. Rana,
Aged about 48 years,
Son of Late Shri Hayat Singh Rana,
Resident of Telephone Exchange Building (First Floor),
Chowk, Lucknow

(Presently working as Sub Post Master, River Bank Colony Post Officer, Lucknow.

Applicant.

By Advocate Sri R.C. Singh.

Versus

1. Union on India,
Through the Secretary,
Ministry of Communication,
Department of Posts, New Delhi.
2. Director Postal Services,
Office of the Chief Post Master General,
U.P. Circle, Lucknow.
3. Senior Superintendent of Post Offices,
Lucknow Division, Lucknow.

Respondents

By Advocate Sri S. P. Singh for Sri Z.A. Khan.

Order

By Hon'ble Dr. A. K. Mishra, Member (A):

This application has been filed challenging the order of imposing the penalty of recovery of Rs. 9,398.00 from the salary of the applicant and withholding one increment from his pay for one year without cumulative effect. The counsel for the applicant urged that this application has been filed without waiting for the results of the appeal made by the applicant before the appellate authority in view of the fact that recovery process has already started from the salary of the applicant and there was urgent necessity to approach this Tribunal against the illegal decision taken by the respondents. He pointed out that the incident based on which the show cause notice was issued to him had taken place long back in December 1997. But the charge sheet was issued only on

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9.7.2004 after a lapse of 6 years. Inordinate delay in initiating disciplinary proceedings strike at the root of the case resulting in vitiation of the proceedings itself. On receipt of the show cause notice, the applicant in his letter dated 26.7.2004 requested for copies of three documents or alternatively providing him an opportunity to inspect those. But no reply to his request was ever made by the respondents. This negligence amounts to denial of reasonable opportunity to the applicant to show cause and violation of the mandatory provisions of Rule 16 of the CCS (CCA) Rules.

2. The counsel for the respondents took preliminary objection that the applicant had not exhausted the alternative remedy available to him under the CCS(CCA) Rules. He filed the appeal against the impugned order on 2nd February 2007 and without waiting for the result of his appeal has rushed to this Tribunal by filing this application on 15th March 2007. Section 20 (1) of the Administrative Tribunal Act, 1985 says that "**A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.**" No extraordinary case has been made out by the applicant why he could not wait for the result of the appeal filed by him before the appellate authority, or at least six months to expire from the date of filing of appeal. In the appeal he has taken same very grounds, which have been advanced in this application. As regards violation of principles of natural justice, the counsel for the respondents brought to our notice the petition of the applicant at Annexure A-3 which does not reveal that he was not given any opportunity to inspect the documents. Neither has he made any such averment.

3. The settled position of law is that unless extraordinary grounds are established, the Tribunal should not entertain applications where alternative remedy is available under service rules for redressal of grievance. Admittedly, the appeal petition is pending before the appellate authority. We would dispose of this application with a direction to the Respondent No. 2 to decide the appeal of the applicant on merits within a period of three months from the



date of receipt of a copy of this order. A copy of this O.A. should be furnished by the applicant to the appellate authority so that all the grounds taken in this application could be decided by him on merits. *However, no recovery* M.P. No
2129/08
Allowed.
should be made till disposal of the appeal
pending before the appellate authority,
4. In view of the above, O.A. is disposed of without any order as to costs.


(Dr. A. K. Mishra)
Member (A)


(M. Kanthaiah)
Member (J)
26.09.08

V.