

As

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 3/90

Gaya Prasad Misra

Applicant

Versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

dated 4.1.89

Against the removal order/removing the

applicant from service as E.D.B.P.M. and the appellate order dismissing the appeal, the applicant has approached the Tribunal. The applicant was working as Branch Post Master of Antgarhi Post office, District Lucknow. The applicant deposited Rs 10,000.00 in Savings Bank Account and Rs 6000/- in another Savings Bank Account on 4.6.81. He did not send this amount of Rs 16,000/- in the B.O. bag on 4.6.81, though this cash was required to be sealed in Cash Leather bag and this sealed bag is kept in this B.O. Bag to be sent to the Accounts Post office Mall., but the applicant did not send the same in the Cash Leather Bag, instead the applicant carried the said cash in his cloth bag (Jhola) to be deposited in the Accounts Post office, Mall which is alleged to have been looted in transit. Regarding the alleged loot no report was made to the Post Master Mall, neither the departmental authorities were informed till 12.6.81. According to the applicant he came to lodge F.I.R. but he was detained

by the police ~~xxxxxx~~ and no report was lodged and was released without any action in the night and he reported the matter to D.M., Lucknow and S.P. Lucknow on 5.6.81 and even though he reported the matter to the authorities obviously orally, no spot enquiry was made. The bag reached the Mal post office on 6.6.81 and on opening it was found that an amount of Rs 16,000/- was missing and in the preliminary enquiry it was found that the amount was not looted. On 21.9.81 the applicant was put off duty and thereafter charge sheet was served on him and the enquiry proceeded. The enquiry officer found the applicant guilty of the charges and acting on the report of the enquiry officer, the disciplinary authority removed the applicant from service. The appeal filed by the applicant was dismissed.

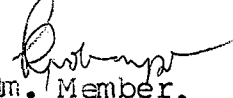
2. The grievance of the applicant is that proper opportunity of hearing was not given to the applicant and he was served the charge sheet on 12.9.86 and he replied the same on 22.9.86, in which he denied all the three charges levelled against him. He requested for personal hearing and also pointed out that he ^{not} being in service no enquiry could be held and he should be reinstated. He even moved an application against the enquiry officer and before enquiry officer he engaged a defence assistant. He was served with a notice on 31.10.88 in which he was required to submit his defence against the enquiry report. It was stated that the


applicant was already punished with the termination order, hence he could not be punished again. It has been stated that the order of termination was withdrawn on the representation of the applicant and fresh enquiry was started.

The applicant was liable to be reinstated before initiation of enquiry.

3. The respondents have refuted this allegation and according to them the petitioner was already on put off duty when the enquiry started. The respondents have denied the averments made by the applicant that the application for change of enquiry officer was received. As the applicant was put off duty and as such the enquiry could have been initiated and the applicant was given full opportunity to defend himself and he avoided the enquiry.

4. We have also gone through the pleadings and according to our opinion we do not find any such fault in the enquiry which may entail interference. The money, in fact did not reach on the spot and no evidence could be tendered from which it could be inferred that the money reached the destination. The applicant did not lodge any F.I.R. or complaint. If all the charges were not proved, one was proved ^{and} that was enough for removing the applicant from service. Accordingly, there appears to be no force in this application and the same is dismissed. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated: 17.12.92.