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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration O.A. No.262 of 1991.

Raj Kishore Shukla Applicant

Versus

Union of India & Others..... Respondents

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

Hon. Mr. A.B. Gorthi, Member (A)

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

Admit. With the consent of the parties
the case is finally disposed of.

2. The applicant was working as Postal Assistant (Time Bound Clerk) in the U.P. Governor's Camp Post Office, Lucknow. He was initially appointed and again promoted as Postman/in the year 1967 by the order of the Senior Superintendent of Post Offices, respondent No.3. The applicant was placed under suspension vide order dated 1.4.1985 and thereafter it was revoked by respondent No.3 after a lapse of one year and four months by order dated 7.8.1986. Respondent No.3 i.e. Suptd. of Post Offices instituted an enquiry against the applicant and the charge was proved. The Senior Suptd. of Post Offices issued a show cause notice on 15.5.90 against which the applicant submitted his reply on 4.6.1990. The Director, Postal Services issued a show cause notice on 15.4.91 disagreeing with the enquiry report against which the applicant again submitted a representation on 1.5.1991. The applicant was compulsorily retired from service by the Director, Postal Services, Office of the Chief Post Master General, Lucknow, respondent No.2. The applicant was not given any opportunity of oral

hearing before his retirement compulsorily. The Director, Postal Services passed the order of compulsory retirement dated 29.7.1991 which is a punishment and has not been passed in public interest. Annexure-5 contains three imputations of charges against the applicant. The Disciplinary authority could not have imposed punishment under clause 8 of Rule 11 as no punishment could be awarded on the basis of the findings of the Inquiry Officer unless the same is approved or accepted by the Disciplinary Authority. The punishing authority has disagreed with the enquiring authority and has also failed to record its reason for such disagreement and has also not recorded its own findings on the charges hence the order impugned is contrary to the Rule 15, sub Rule 2 of Civil Services (Classification & Appeal) Rules, 1965.

3. The respondents version is that the applicant was given reasonable opportunity to defend himself in respect of those charges. He was also given copy of the enquiry report. The Director, Postal Services was the competent authority to impose the penalty of compulsory retirement of the applicant. The penalty imposed upon the applicant was not disproportionate to the gravity of the offence on account of his acts of commission and omission. The applicant's learned that counsel stated/the copy of the documents were not given to him to defend his case. Respondents version is that the documents which the applicant required were not relevant to him. But even if those documents were not relevant, the applicants' should have been given the opportunity to inspect the documents before passing any order. In these circumstances, the application deserves

to be allowed, and the impugned order dated 29th July, 1991 passed by the Director Postal Services, respondents No.2 is quashed. The applicant shall be deemed to be in service. There will be no order as to costs.


Member (A)


Vice Chairman

Dated the 20th Sept., 1991.

RKM