

(A2)

CHIEF COMMISSIONER'S TRIBUNAL
LUCKNOW BENCH

Case No. 164/92

N.K. Rewari

Applicant

versus

Union of India & others

Respondents.

Shri N.K. Rewari Counsel for Applicant.

Shri S.C. Tripathi Counsel for Respondents.

CONTIN

The Hon. Mr. Justice U.C. Srivastava, V.C.
The Hon. Mr. K. Jayya, Adm. Member.

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

The applicant was Extra Departmental Delivery Agent at the branch post office, Budahari. It appears that a criminal complaint was lodged against the named Shri Ram Dulare applicant by one person/ regarding stealing of heifer of ~~buffalo~~ and the applicant was later on arrested and sent to jail but was released on bail. The said Ram Dulare reported the matter to the Inspector of post office and consequently the applicant was put off duty on 7.8.88. According to the applicant he has purchased the heifer. Enquiry was made and charges were not proved. The disciplinary authority, nevertheless, awarded the punishment of removal from service vide order dated 31.3.89 without recording any reason for his disagreement with the findings of the enquiry officer. The appeal preferred by the applicant was remanded back to the respondent No. 1 for a de-novo trial from the stage of examining the enquiry report and passing the punishment order. In the trial the disciplinary authority upheld his previous punishment. Another appeal was preferred by the applicant which was allowed and the applicant was fully

exonerated. It appears that no action has yet been taken.

2. The grievance of the applicant is that he has been put off duty and he has not been paid allowance of that period. The rules provide that nobody can claim as a right any allowances for the period he was on put off duty. The same has rightly been provided in E.D.A Rules. They cannot get salary and they get allowances in respect of 'misconduct', instead the dispute appears to be a private dispute between the parties and it cannot be said ^{to be} a misconduct, which is relatable to his private dispute and the applicant contends that he has not stolen the heifer but he has purchased it with the other person, it may be a criminal case and may be a case of civil liability. The applicant should not have been deprived of the entire allowances.

3. The application is allowed in part and the respondents are directed to pay the allowances to the applicant from the stage of enquiry officer's report in which it has been stated that the charges against the applicant were not proved.

4. The application is disposed of as above, with no order as to costs.

A.M.

V.L.

Lucknow: Dated: 17.7.92

Shakeel/