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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW THIS THE 1st DAY OF Sept 97.

O.A. No. 60/92

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. V.K. SETH, MEMBER(A)

Surajlal aged about 46 years, son of Shri Kallu, resident of Rahimnagar, H.NO. 547/234, Post Nabinagar, Lucknow.

Applicant.

By Advocate Shri Surendran P.

versus

1. Union of India through the Secretary ministry of Communication, Department of Posts, Dak Bhawan, Parliament Street, New Delhi.
2. The Chief Post Master General, U.P. Circle Lucknow.
3. The Director Postal Services, Lucknow, Office of Chief P.M.G. U.P. Lucknow.
4. The Superintendent of Post Offices Barabanki.

Respondents.

By Advocate Shri ~~A.K. Chaturvedi~~ *D. S. Ranihawa*

ORDER

BY HON. MR. V.K. SETH, MEMBER(A)

Vide this O.A. the applicant has prayed for setting aside of the orders of the respondents dated 31.1.89, 2.5.89 and 26.12.1990. Vide the first order dated 31.1.89, the Superintendent of Post Offices, Barabanki imposed on the applicant (officiating Sub Post Master Saadatganj at the relevant time) the penalty of recovery of an amount of Rs 5000/- from his pay in 36 instalments. On consideration of an appeal preferred by the applicant, the appellate authority, viz Director of Postal Services vide his letter of 28.5.89 confirmed

*Corrected
as per order
dt 3/12/97*

penalty imposed by the disciplinary authority. The applicant thereafter, filed a petition which was rejected vide order dated 26.12.90 by the concerned authority.

2. The respondents have contested the relief claimed by the applicant and pleadings have been exchanged between the two sides. We have also taken careful note of ~~the~~ rival contentions advanced by the learned counsel for the two sides during the course of hearing.

3. The main grounds advanced by the applicant are that the appellate order, as also the order passed by the Member Postal Service Board are non speaking; that there has been violation of principles of natural justice as he had no opportunity to cross-examine the witnesses as an enquiry under rule 16(1)(b) was not held. It is also alleged that the documents demanded by him were not supplied.

4. As regards the contention of the appellate and revision orders being non-speaking, we notice that both these orders are detailed and discuss the applicant's pleas advanced by the applicant. We therefore, do not find any force or substance in this contention.

5. In regard to the documents demanded by the applicant, it is clear from the Annexures enclosed with the O.A itself, that the request of the applicant was duly considered. Vide letter dated 30.10.88, in response to the applicant's request of 13.9.88, he was informed that he could examine certain documents at D.O. Barabanki. In respect of others it was mentioned that the circulars are sent to the Post Masters and sub Post Masters and these are not confidential. A further reminder was therefore, sent to him for submitting his defence after

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perusal of documents vide a letter dated 31.10.88. This contention advanced by the applicant therefore, does not carry any weight.

6. The next ground relates to the violation of principles of natural justice and not holding of an oral enquiry. This ground was also most strenuously urged during the course of hearing. We notice from the enclosures to the O.A. that a request in this regard was made by the applicant to the disciplinary authority but the same was rejected. The detailed punishment memo of the disciplinary authority elaborates the various requests made by the applicant during the course of proceedings and action taken thereon. We also notice that the statement of imputations mentions certain documents and the provisions of Post office T.D. Rules. There is no mention of any witnesses. In the circumstances, in our view the request of the applicant to personally record the statements of certain officials was only rightly considered as a delaying tactic. For the same reason, the request of the applicant for holding enquiry under rule 16(1) was also in our opinion rightly rejected. During the course of hearing it was put to the learned counsel for the applicant whether in view of the facts and circumstances of the case it was obligatory on the part of the respondents to hold an enquiry. The learned counsel could not substantiate his contention in this regard and failed to produce any rule or instructions in support of his contention. Rule 16(1)(b) of the C.C.S(C.C.A.) Rules only requires holding of an enquiry in the manner laid down in sub rule 3 to 23 of rule 14 in every case in which the disciplinary

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authority is of the opinion that such enquiry is necessary. The disciplinary authority did not consider such an enquiry necessary and therefore, rejected the request of the applicant. In our view, in the facts and circumstances of the case, his decision ^{cannot be} faulted. It is also noteworthy as mentioned earlier that all the three orders impugned in the O.A. are reasoned and speaking orders and as is obvious from their contents, the applicant was afforded all reasonable opportunity in conformity with the rules. We therefore, do not find any substance in the contention of the applicant regarding violation of principles of natural justice.

7. The learned counsel for the applicant pointedly drew out attention to the fact that while the total amount involved in the fraudulent withdrawal was almost Rs72,000/-, the applicant has been apportioned only a loss of Rs5,000/-. In his view, the apportionment of loss among the various employees require oral hearing. We are not convinced by line of argument. As is apparent from the punishment memo and the other impugned orders considering the nature and extent of violation of the rules by the applicant during the performance of his duties ~~and decided~~ ^{was decided} the quantum of punishment. In our view, an oral enquiry could not be of any help in regard to this aspect. The objective and the circumstances that may require an oral enquiry are quite different as is obvious from a perusal of the rules.

8. In view of the cogspectus of the case and the foregoing discussions we hold that the present O.A. lacks merit. It is therefore, hereby dismissed.

8. Parties shall bear their own costs.

MEMBER(A)

VICE CHAIRMAN

Lucknow; Dated: 1.9.97