

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 201/2006

is the 17th day of September, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)

Arun Kumar Verma, age about 40 years, son of Sri Ram Ratan, Resident of Village and Post Bisara, District Sitapur.

Applicant

By Advocate Sri Surendran P.

VERSUS

1. Union of India through the Secretary, Department of Posts, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Director of Postal Services, Lucknow Region, Lucknow.
4. Superintendent of Post Offices, Sitapur.

Respondents

K. Singh
By Advocate Sri G.S. Sikarwar

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ORDER

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

Aggrieved by the removal order dated 12.9.2003 of Respondent No. 4 and its confirmation in the order dated 20.9.2005 of Respondent No. 3, the Appellate Authority, this application has been filed with a prayer to quash these orders and to treat the applicant as if he was in continuous service.

2. The applicant was put off from duty on 7.3.2000 while he was working as Extra Departmental Brach Post Master (EDBPM) at Bisara Sitapur. A formal charge sheet was issued on 25.9.2000 containing three charges: charge No. 1 was for
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unauthorized absence from 4.12.99 to 6.12.99 leading to disruption in postal work; charge No. 2 was about absence from 5.2.2000 without intimation, unauthorized handing over charge of the Branch Post Office to his own sister Chaheta Devi and misappropriation of money order amount of Rs. 1800/- through her by making forged signature of the payee and false identification by his own father Sri Ram Ratan Lal; the third charge was about non-cooperation in handing over the charge of the post office after he was put off from duty.

3. On denial of the charges by the applicant, a regular inquiry was conducted and the Inquiry Officer (I.O.) submitted his report to the Disciplinary Authority on 7.1.2002. But the matter was remanded again to I.O. by the Disciplinary Authority on the ground that the inquiry was incomplete in the absence of formal examination of the charged official. Thereafter, the inquiry was completed and the removal order at Annexure-1 was issued. The applicant filed an appeal which was disposed of by confirming the penalty imposed. Hence this application

4. The main ground taken by the applicant is that there was denial of reasonable opportunity to him as one of the documents mentioned in the annexure to the charge sheet was not supplied to him and some of the additional documents demanded by him were also not supplied; further, that a copy of the inquiry report, holding him guilty of the charges was not supplied to him; and that the disciplinary authority disagreed with inquiry officer on flimsy grounds.

5. The respondents in their supplementary counter affidavit have brought on the following facts: that the applicant had filed

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O.A. No. 577/2002 before this Tribunal which was decided on 27.11.2002 with a direction to the applicant to cooperate in the inquiry and a direction to the competent authority to conclude proceedings within 3 months and in the event of non-cooperation, to complete the inquiry ex-parte. It was explained that the document listed at item No. 25 in the annexure to the charge sheet could not be given to the applicant inadvertently, but it was produced along with the prosecution brief and was very much available to applicant for preparing his defence plea; that all other documents mentioned in the charge sheet and such of the additional documents required by the applicant as were available were supplied to him. Therefore, there was no denial of reasonable opportunity to the applicant, or, for that matter, violation of principles of natural justice. The efforts made by the respondents in serving a copy of the inquiry report have been enumerated at paragraphs 9,10,11,12 and 13 of the supplementary counter affidavit to which no rebuttal has been made by the applicant. It has been clearly stated that on 29.5.2000, the Branch Post Master of Sitapur, himself, went to deliver the registered envelope containing the inquiry report to the applicant, but he refused to receive the inquiry report.

6. At the time of hearing, the learned counsel for the applicant laid emphasis on the fact that in the absence of proper service of the inquiry report, the applicant was handicapped to file an effective representation. He submitted that other mode of service such as publication in the local news paper should have been adopted. Similarly, his contention was that the matter should not have been

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remanded by the Disciplinary Authority to the Inquiry Officer for examination of the charged official when the applicant had submitted his written statement. It is not clear how this action resulted in denial of opportunity to him. On the other hand, it indicates that one more opportunity was given for making his own statement before the Inquiry Officer.

7. The question of non-supply of the inquiry report to a charged official has been recently examined by the Supreme Court in its judgment dated 26.5.2009 in **Civil Appeal No. 7087 of 2002 Union of India and Ors. Vs. Bishamber Das Dogra** and it was held that unless the charged official establishes de-facto prejudice because of non-receipt of the enquiry report, such a fact would not vitiate entire disciplinary proceedings.

The Supreme Court have quoted their own observation in **State Bank of Patiala Vs. S. K. Sharma MANU/SC/0438/1996** to the effect that "Justice means justice between both the parties. The interests of justice equally demand that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of justice. Principles of natural justice are but the means to achieve the ends of justice. They can not be perverted to achieve the very opposite end. That would be a counter-productive exercise." Similarly, they have quoted an observation of the Supreme Court in **S.L. Kapoor Vs. Jagmohan MAN/SC/0036/1980** that the principles of natural justice should not be taken advantage of as an empty formality as if no other conclusion was possible on admitted or indisputable facts of the case and in such a




factual situation, the order did not require to be quashed. The person complaining of non-observance of the principles of natural justice must satisfy that some real prejudice has been caused to him for that reason and there was no such thing as a merely technical infringement of natural justice.

8. We find that the applicant has effectively made an appeal to the Appellate Authority on the basis of the detailed orders passed by the Disciplinary Authority. It is not the case that the Disciplinary Authority had simply endorsed the findings of the Inquiry Officer, and on that ground he did not have an opportunity to effectively represent against the findings of Disciplinary Authority. In the absence of rebuttal of the averments of the respondents in their supplementary affidavit, we are not inclined to accept the plea of the applicant that he was not to blame for non-service of the Inquiry Officer. As a matter of fact, the contention of the respondents that many attempts made to serve the inquiry report were frustrated by the applicant is borne out by the narration of events in their supplementary counter affidavit.

9. We are therefore, not impressed with the argument that there was any denial of reasonable opportunity, or violation of principles of natural justice. It is not within our scope to reassess the evidence on the basis of which the charges against the applicant had been proved. We find that the removal order dated 12.9.2003 of Respondent No. 4 and the order dated 20.9.2005 of Respondent No. 3, the appellate authority are very detailed in nature. The Appellate Authority has discussed all the pleas taken by the applicant in his appeal petition.



10. In the circumstances, we do not find any infirmities in these orders. The O.A. is, accordingly, dismissed. No cost.


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

17/09/09


(Ms. Sadhna Srivastava)
Member (J)

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