

CENTRAL ADMINISTRATIVE TRIBUNAL: LUCKNOW BENCH

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Wednesday the 10th day of May 2000

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PRESENT

The Hon'ble Shri D.V.R.S.G.DATTATREYULU, MEMBER(J)

and

The Hon'ble Shri S.MANICKAVASAGAM, ADMINISTRATIVE MEMBER

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O.A.No. 251 of 1990

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Radhey Shyam Tripathi .. Applicant

Vs.

1.Union of India through the Secretary
to the M/o Communications, Department
of Posts, Govt. of India, New Delhi

2.The Director of Postal Services, Lucknow Region
Lucknow

3.The Superintendent of Post Offices
Sitapur division, Sitapur

4.The sub-Divisional Inspector, Sitapur North
Sitapur

5.Shri Ram Narain, IO, the then SDI, Biswan
Sitapur

.. Respondents

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Mr.Sanjay Srivastava .. Advocate for the applicant

Mr.D.R.Sinha .. Advocate for the respondents

Order: Pronounced by the Hon'ble Shri D.V.R.S.G. DATTATREYULU
MEMBER (J)

The applicant in this OA prays for quashing the orders of removal from service under Annexures A-1 and A-2 and the orders contained at Annexures A-3 and A-6 regarding the period of putting off duty.

2. The facts as averred in the OA would go to show that the applicant was appointed as an ED BPM. It is stated that the applicant was put off duty on 7.2.1985 without any reason and he was reinstated on 16.9.1985 when there was no charge pending against him. This action according to him is incorrect. Subsequently a charge sheet was issued to him ~~dt.~~ 12.1.1988 to which the applicant submitted his reply. The charge sheet is at Annexure A-9 and the reply to the charge sheet is at Annexure A-10. The enquiry was conducted and it is the applicant's case that adequate opportunity was not given to him and he has protested for the same. It is further averred in the OA that he has not been supplied with copies of documents and that the inquiry officer had let in new evidence to be produced by the prosecution in the inquiry. On the basis of the inquiry report it was held that ~~the~~ ^{some} charges ^{were} ~~was~~ held as proved and some of the charges as not proved. The disciplinary ~~xxx~~ authority has passed the impugned order holding that the charges are proved and the details of the charges are mentioned in the application. It is stated that the ^{applicant} had preferred his appeal and also the review petition, but

was not successful. Hence this application.

3. In the reply filed by the respondents it is stated that on 6.2.1985 the sub-Divisional Inspector had visited the post office and found the applicant absent from duty. He also found on verification of certain irregularities in respect of some accounts. It is stated that the applicant gave the information stating that he kept the unaccounted money to the tune of Rs.174.67/- in a separate envelope. It was further found that a sum of Rs.400/- received towards deposits into postal accounts on 17.1.1985 was not reflected in the postal accounts up to 6.2.1985. Likewise the deposits dated 14.8.1984 and 7.7.1984 were brought into the postal accounts only on 16.8.1984 and 20.7.1984. The reply further proceeds to state that as there was no monetary loss the applicant was taken back into service. But again the applicant chose to commit embezzlement. The Mail Overseer visited the Post Office on 21.11.1985 and checked the accounts and found that Rs.335/- as short. Further the applicant had allowed his son to work, without obtaining orders from the competent authority. The Mail Overseer checked the post office accounts and found that a sum of Rs.360 dated 16.11.1985 was ^{shown} as paid to the payee, viz. one Kuntidevi. But it was not paid to her. The put off duty was therefore confirmed as the charge sheet was being issued. Subsequently disciplinary proceedings were initiated against the applicant for the above said charges (charges were mentioned at pages 5 and 6 of the reply).

4. The applicant was given full opportunity during the inquiry to defend himself and the inquiry officer held the charges as proved. The findings of the inquiry officer holding that the charges stood proved ~~was~~ accepted by the disciplinary authority as well as the appellate and reviewing authorities.

5. When the OA was taken up for final disposal on 8.5.2000, neither the respondents nor their counsel was present. However we have heard the learned counsel for the applicant. Since the pleadings are complete ^{this is a learned counsel} we have decided to dispose of the OA on merits.

6. We have considered the various documents filed. On a careful analysis of the rival pleadings, the point that arises for our consideration is whether the orders passed by the Disciplinary Authority are according to the rules or not?

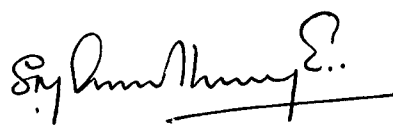
7. Though it is the contention of the applicant that the orders were not passed properly, it is clearly explained in the reply that the charges relating to non-accounting of the departmental money and also forgery of signatures of the payees and drawing the allowance for substitutes, without obtaining the prior permission of the competent authority, stood proved. The learned counsel for the applicant has elaborately argued the matter to show that the charges are not correct. But even according to the averment made in the OA itself we find that the applicant wants to try to ^{have} ~~try~~ splitting of the evidence regarding the proof ^{of} ~~of~~ accounting of the departmental money by stating that instead of 20,


stamping was wrongly put as '7' and with regard to other amounts, the applicant's case is that the payees have received the money orders and their signatures were not forged by him and there was no proof for the same. But the reply shows that the inquiry officer had conducted an elaborate inquiry into the matter and found the charges as proved. We are of the view that ~~xxx~~ it is not for this Tribunal to make a fresh assessment of evidence. But at the same time it is the duty of the Tribunal to find out as to whether the appreciation of the evidence arrived at by the inquiry officer as confirmed by the disciplinary authority as also the appellate and reviewing authorities, are perverse or not. It cannot be said that the inquiry officer has committed any flagrant violation of either the principles of natural justice or misdirected himself with regard to appreciation of the evidence on record. We further find that the appellate authority has also considered the evidence on record in a proper perspective as could be seen from the reply. But the applicant is not able to point out whether ~~anyxxx~~ there has been any perversity in the appreciation of the evidence on record and as to how the orders passed are against the principles of natural justice or there is non-application of mind by the competent authority. As stated above the proof in a disciplinary proceeding in a departmental proceeding is different from that of a criminal proceeding. Therefore in the instant case the proof accepted by the disciplinary authority cannot be termed as insufficient or perverse.

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8. We further find that there is nothing on record to show that either the inquiry officer is prejudiced against the applicant or the disciplinary authority or the appellate/reviewing authority are prejudiced against the applicant. These are all inbuilt material in the case which goes to show that the authorities have acted with an open mind with regard to the consideration of the material placed before them, vis-a-v-vis the applicant, and the authorities have acted in a fair and just manner.

9. In the light of the discussion above we hold that the impugned action of the respondents does not call for interference, and the OA is dismissed as devoid of merit with no order as to costs.


(S. MANICKAVASAGAM)
MEMBER (A)


(D.V.R.S.G. DATTATREYULU)
MEMBER (J)

10-5-2000