

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

D.A.No.198 of 1992

(O.A.No.945 of 1990)

Durga Prasad Nishad .....Applicant.

Versus

Union of India & others .....Respondents

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

Hon'ble Mr. K. Obayya, A.M.

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

The applicant was working as Branch Post Master of Sava Branch Post Office in Account with Mithora Sub Office under Faizabad Postal Division in 1984. He was charged for having misappropriated a sum of Rs.1000/- said to have been tendered on 12.2.87 by Shri Bhagwan Deen on behalf of one Smt. Prema Devi for crediting it to her S.B. Account standing at Sava Branch Post Office. It was alleged that the applicant although credited the said amount in the pass-book under his signature and also impressing the same with date-stamp of the said post office, he failed to credit it into the corresponding page of the ledger and also in B.O. Daily Account for the day. Thus, he has violated the provisions of Rule 131 of B.O. Rules and those of Rule 17 of EDA (C & S) Rules, 1964. The applicant denied the charge and an Enquiry Officer was appointed. Before the Enquiry Officer, the said Smt. Prema Devi and her husband Bhagwan Deen were examined and her husband Bhagwan Deen deposed that he had taken back the amount shortly after he had deposited it but failed to get its entry scored out from his pass-book. The enquiry Officer came to the conclusion that it appears that the applicant had deposited the amount but later on he refunded that amount to him but no correction was made by him, that is why he violated the B.O. Rules

97

and misappropriation was not proved. The Disciplinary Authority did not agree with the findings, recorded by the Enquiry Officer and held that the applicant is guilty of the charges levelled against him and he was removed from service vide order dated 31.1.89. The appeal filed against the same was also dismissed on 23.7.90. The learned counsel for the applicant contended that while disagreeing with the findings recorded by the Enquiry Officer, the Disciplinary Authority should have given a show cause notice to the applicant assigning reasons therein of his disagreement. But that was not done in this case and the applicant has been deprived of opportunity of hearing which violated the principle of natural justice as has been held in the case of 'Naraini Mishra Vs. State of Orissa & others' 1969 SLR 697. Accordingly, this application is allowed and both the orders dated 31.1.89 and 23.7.90 are quashed. However, it will be open for the respondents to continue with the enquiry after giving opportunity to the applicant and after giving a notice assigning reasons therein of his disagreement which has been so recorded and thereafter to pass a speaking order in accordance with law. No order as to costs.

  
MEMBER (A)

DATED: JANUARY 27, 1993.

(ug)

  
VICE CHAIRMAN.