

withholding of his review petition in the matter.

2. Pleadings have been exchanged between the parties. We have also taken note of the submissions made by the learned counsel for the applicant during the course of the hearing. None was present on behalf of the respondents at the time of hearing.

3. The applicant's case is that while working as Extra Departmental Mail Peon at Bhaishua Gajan Branch Post Office in account with Sagra Sub Office in the District of Pratapgarh, the applicant was put off duty vide order dated 11.7.1987 and the disciplinary action initiated against him under E.D.A. Conduct and Service Rules. Vide order dated 24.2.1990, the inquiry Officer was appointed to inquire into the charges set-out against the applicant and the report of the inquiry Officer was received on 18.9.90. In the inquiry report, it was held that charges against the applicant were not established. A copy of the inquiry report was furnished to the applicant on 26.9.90 and he was asked to submit his reply within 15 days. On receipt of representation of the applicant dated 1.10.90, the disciplinary authority vide his order of 31.1.90 removed the applicant from service with immediate effect. This order was upheld by the appellate authority on 27.12.90. The applicant submitted a review petition addressed to Govt. of India, Ministry of Communication dated 7.2.1991. This review petition was withheld by the appellate authority viz. Senior Superintendent of Posts Offices vide his letter dated 26.5.92 on the ground that it was not addressed to P.M.G., Allahabad.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Original Application No. 499 of 1992

this the 21st day of December, 1995

HON'BLE MR JUSTICE B.C. SAKSENA, V.C.
HON'BLE MR V.K. SETH, ADMN. MEMBER

Hari Lal Saroj, age 29 years, S/o Moti Ram Saroj,
R/o Village & Post Dhahhuwa Gajanpur (Sagra)
Sadar, Distt. Pratapgarh

Applicant

By Advocate : Sri M. Dubey

Versus

Union of India by Secretary Communication
(Postal) Govt. of India, Parliament Street,
New Delhi.

2. Sub-Divisional Inspector of Post Offices of
Pratapgarh West Sub Division, Pratapgarh.

3. Sr. Supdt. of Posts, Pratapgarh, Distt.
Pratapgarh.

Respondents

By Advocate : None

O R D E R

V.K. SETH, MEMBER(A)

By means of this O.A., the applicant has
prayed for setting-aside of the order of his
removal from service dated 31.1.1990 and the
appellate order dated 26.7.90 upholding the
same. He has also prayed for notice against

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4. The applicant has assailed the order in question on the ground that the disciplinary authority has not attributed cogent and sufficient reasons while differing with the inquiry officer and that the same had not been communicated to the applicant to offer effective representation. He also argues that the appellate order is without discussion and in violation of rule 15 of E.D.A. Conduct and Service Rules. He has also pointed out that the inquiry officer, on the basis of the evidence adduced before him has held both the charges ~~not~~ not proved. A further point has been made regarding failure to logically discuss the points taken in the appeal as required by Govt. of India's instructions 4. The applicant further argues that as per Rule 16 of the E.D.A. Conduct & Service Rules, he had an option of review by the Central Govt. or the Head of the Circle or the authority immediately superior to the authority passing the order and that respondent No. 3 has erroneously withheld it. The applicant has also cited certain rulings in support of his claim.

5. During the course of hearing, the learned counsel for the applicant stressed that failure on the part of the disciplinary authority to indicate reasons for differing with the findings of the inquiry officer which exonerated the applicant, while working the applicant to send a representation ~~exonerated~~ in violation of principles of natural justice. We find force and logic in this contention. Since the inquiry officer had already exonerated the applicant

6. We have also found force in the second contention of the applicant regarding appellate authority. Rule 15 of E.D.A. Conduct and Service Rules requires appellate authority ~~inter alia~~ to consider whether the procedure prescribed in the Rules has been complied with. The appellate order does not disclose whether this was done ^{effect} nor there is no recitation to this/ made in the said order.

7. Coming now to rulings cited by the applicant in Surat Singh vs. S.R. Bakshi (A.I.R.1971 Delhi 132) it has been held that delinquent is entitled to inspect even documents not relied upon by Govt.

but required for preparing defence. Thus, lending support to the next contention of the applicant.

8. In view of the foregoing dicussions, we find merit in the claim of the applicant. We, therefore, do not propose to discuss the remaining grounds advanced by the applicant and the rulings cited by him. The O.A. is hereby allowed setting-aside the orders of disciplinary authority dated 31.1.90 and appellate order dated 26.7.90 and the case is remitted back to the disciplinary authority for fresh action from the stage of the submission of the inquiry report. We, however, make it clear that the applicant shall continue to be treated as ~~put off~~ ^{on} duty from the date of his removal from service until futher orders by the appropriate departmental authorities.

9. In the facts and circumstances of the case, the parties shall bear their own costs.

Member (A)

Lucknow: Dated: 11.12.95
GIRISH/-


Vice-Chairman