

(20)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, "GULESTAN" BUILDING NO.6  
PREScot ROAD; BOMBAY - 1

Transferred Application No. 489/87

Shri Ramesh Sitaram Joshi  
101 MG Road; Behind Ghaya Niwas;  
C/o. Dr. S R Joshi, Nashik Road ..Petitioner

V/s.

1. G S Tiwari  
Chief Accountant & Admini-  
strative Officer &  
Inquiry Officer; having his  
office at Indian Security  
Press; Nashik Road; Nashik
2. P S Shivaram  
General Manager  
India Security Press  
Nashik Road; Central  
Railway 422101
3. B V Ramarao  
(Director General in)  
Ministry of Finance  
Department of Economic  
Affairs; New Delhi
4. P K Kaul  
The Reviewing Officer  
and Secretary, Min. of Finance  
Department of Economic Affairs  
New Delhi
5. Union of India  
through Ministry of Law  
Justice & Company Affairs  
Aayakar Bhavan  
New Marine Lines  
Bombay 2 ..Respondents

Coram: Hon. Shri Justice S K Dhaon, V.C.  
Hon. Shri M Y Priolkar, Member(A)

APPEARANCE:

Mr. D V Gangal  
Advocate  
for the applicant

Mr. V G Rege  
Counsel  
for the respondents

ORAL JUDGMENT: DATED: 20.8.92  
(PER: S K Dhaon, Vice Chairman)

The General Manager, India Security  
Press on 28/29-7-1982 passed an order in the

disciplinary proceedings initiated against the applicant in his capacity as the punishing authority. He reduced the applicant in rank. On 3.11.1983 the Director General (Currency and Coinage) acting as an appellate authority dismissed the appeal preferred by the applicant. On 7.11.1984 the Joint Director (Currency and Coinage) rejected the review petition of the applicant. The three orders are being impugned in the present application.

2. The disciplinary authority had appointed an Inquiry Officer. That officer gave a detailed report. He came to the conclusion that the charge, that the applicant had mis-appropriated a sum of Rs.3,000 along with his superior officer viz., S M Avadhoot, had not been brought home to the applicant. We are informed that Shri Avadhoot was subjected to a criminal trial and the charge there was that he had mis-appropriated a sum of Rs.3,000/- He was convicted by the trial court, but in appeal he was given the benefit of doubt and, therefore, was acquitted. We are also informed that disciplinary proceedings were initiated against Shri Avadhoot and therein an order of dismissal was passed on the ground that he had mis-appropriated a sum of Rs.3,000/-

3. The inquiry officer recorded ~~the~~ finding that the applicant was vicariously responsible as he had not observed the terms of certain standing order. He also took the view ~~that~~ even though the applicant had not really misappropriated any amount, yet on account of his carelessness, Shri Avadhoot could succeed in misappropriating ~~the~~ amount.

4. From a bare reading of the order of the punishing authority it is apparent that the report of the inquiry officer was given to the applicant for the first time along with the order of punishment. It follows that the applicant was not furnished with a copy of the inquiry officer's report before the order of punishment was passed. This procedural defect was fatal. This is enough to quash the order of punishment.

5. We are now left with the question as to whether, having regard to the facts and circumstances of the case, we should leave it free to the disciplinary authority to reinitiate the disciplinary proceedings from the stage of handing over a report of the inquiry officer. We are not oblivious of the fact that normally such a course should follow. But, having regard to the fact that the ~~incident~~ relates to the year 1968 and keeping in view of

the finding recorded by the inquiry officer that the applicant invited the trouble to himself merely because he acted carelessly, interest of we think that the justice requires that, in this particular case, we should not permit the disciplinary authority to re-initiate the disciplinary proceedings.

6. The application succeeds and is allowed. The orders passed by the disciplinary authority, appellate authority and the revision authority are quashed. There shall be no order as to costs.

42b  
(M Y Priolkar)  
Member(A)

42b  
( S K Dhaon )  
Vice Chairman

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