

(4) BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY
CAMP AT PANAJI

Original Application No.893/89

Shri T.S. Gasti ... Applicant

vs.

Senior Superintendent of
Post Offices, Goa, Daman &
Diu, Panaji, and others ... Respondents

CORAM : Hon'ble Vice Chairman, Shri G.Sreedharan Nair
Hon'ble Member (A), Shri M.Y. Priolkar

Appearances:

Applicant in person and
Shri G.U.Bhobe, counsel,
for the respondents.

ORAL JUDGEMENT: Dated : 12 July 1990
(Per. Shri G.Sreedharan Nair, Vice Chairman)

The applicant, an employee of the Postal Department in the Lower Selection Grade, was proceeded against by the issue of a Memorandum of charges dated 8.2.1983 under rule 14 of CCS(CCA) Rules. The imputation was that he submitted a leave travel concession T.A. bill for Rs.3,284/- for the unperformed journey from Bicholim to Shrinagar and back for himself and three members of his family during the period from 30.4.82 to 15.5.82. The applicant denied the charge and an enquiry was conducted. The disciplinary authority by the order dated 28.5.86 held that the charge is proved and imposed upon the applicant the penalty of withholding of his next increment for a period of 23 months. The Director of Postal Services, second respondent, took the matter in suo-motu revision and after affording the applicant opportunity

... 2/-

submitting his representation enhanced the penalty to one of reduction of pay by one stage for a period of two years. The applicant has prayed for quashing both the orders of ~~the~~ disciplinary authority as well as the order passed in revision. As regards the order of ^{the} disciplinary authority is concerned, it ^{is} urged that it was without proper assessment of the evidence that the imputation was found to be established. As regards the order passed in revision the plea taken up is that it is violative of the provision contained in Clause (v) of sub-rule (1) of Rule 29 of the Rules, since the order was passed after six months of the date of the order of the disciplinary authority.

2. The applicant has also prayed for expunging of an adverse entry which has been made in his confidential report and communicated to him on 10.4.1987. It is alleged that the entry has been made in view of the penalty that has been imposed.

3. There is a further prayer in the application for promoting him to the H.S.G.(II) cadre from the date his junior has been promoted and for allowing consequential benefits.

4. Respondents have filed reply traversing ^{the} various averments in the application. As regards the disciplinary proceedings, it is stated that they have been conducted according to the rules. In respect ~~of~~ the revision proceedings it is stated that it was initiated by the competent authority as per the rules. The claim for promotion of the applicant to the H.S.G.(II) cadre is resisted on the plea that those who have been promoted are actually senior to the applicant as per the gradation list.

5. We have heard the applicant who appeared in person as well as Mr. G.U.Bhobe, Advocate, on behalf of the respondents and also ^{have} gone through the written arguments submitted by the applicant.

6. As regards the order of the disciplinary authority dated 28.5.86, we do not find any reason for interference, as it is seen that the finding as regards the truth of the imputation is based on the evidence that was tendered in the course of the enquiry. However, the challenge of the applicant as against the order dated 10.9.87 enhancing the penalty has to be accepted. The said order was passed by the second respondent, who is admitted ~~to be~~ ^{(1) of Rule} the appellate authority. In view of Clause (v) of sub-rule ²⁹ _L of the Rules, the power of the appellate authority to call for the record of an enquiry and revise the order of the disciplinary authority has to be exercised within six months of the date of the order proposed to be revised. This is clear from a plain reading of the Rule. The ^{other} Authorities specified in the Rule who are also empowered to exercise the power of suo-motu revision are enabled to do so at any time, but not the appellate authority while he exercises the said power. From the proceedings of the revision it is seen that the show cause notice was issued to the applicant only on 15.5.1987. The final order is seen to have been passed on 10.9.1987. There is no material before us to hold that within the prescribed period of six months of the date of ^{the order} _{of the disciplinary} ^{quintuply} proceedings the second respondent had called for the records of the enquiry as ordained under rule 29 of the Rules. As such, the order of the second

(7)

respondent dated 10.9.87 enhancing the penalty to one of
reduction of pay has to be set aside and ~~viewed~~ so.

7. The relief claimed by the applicant ~~in~~ expunging
the adverse entry cannot be allowed since it is admitted
that the entry was made as a consequence of the imposition
of the penalty in the disciplinary proceedings.

8. As regards the alleged denial of promotion to the
cadre of H.S.G. (II), though there is a contention in the
reply filed by the respondents that the persons promoted
are senior to the applicant, the p~~lea~~ is not supported by
the copy of the gradation list that is on record. As such,
the second respondent is hereby directed to consider the
claim of the applicant for promotion to the cadre of H.S.G.
(II) in accordance with the rules. This shall be done
within a period of two months from the date of receipt of
this order.

9. In view of our findings that the order dated 10.9.87
under which the penalty has been enhanced is unsustainable,
the result is that the order of the disciplinary authority
dated 28.5.86 imposing upon the applicant the penalty of
withholding of one increment shall revive. Respondents
1, 2 and 3 are directed to allow the applicant the
consequential benefits on that account within the aforesaid
period of two months. The application is disposed of as such.

Sh
(M.Y. Priolkar)
Member (A)

Dr S S N
(G. Sreedharan Nair)
Vice Chairman