

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Thursday the 29th day of May, 2003

Coram: Hon'ble Mr. Justice B.N. Singh Neelam - Vice Chairman
Hon'ble Mr. V. Srikantan - Member(A)

O.A. 172 OF 2000

Nandkumar Pandurang Kulkarni,
S/o Pandurang Kulkarni,
aged 45 years, Mail Guard,
Sub Record Office, RMS 'B' Division,
Solapur,
R/o C/o M.V. Deshpande,
272, /69, Kavita Nagar,
P.O. Solapur.

(By Advocate Shri S.P. Kulkarni) - Applicant

Versus

1. Union of India,
through Platform Inspector,
Railway Mail Services,
Pune Railway Station,
Pune, R.M.S., Pune.
2. The Senior Superintendent of
Railway Mail Service,
(Department of Posts) 'B' Div.
Office Near C.T.O. Pune,
at P.O. Pune.
3. The Director of Postal Services,
O/o Postmaster General,
Pune Region,
Office Near C.T.O.
Pune.

(By Advocate Shri V.S. Masurkar) - Respondents

O R D E R (ORAL)

By Hon'ble Mr. Justice B.N. Singh Neelam - Vice Chairman -

The Applicant in this O.A. has challenged the order passed by the Disciplinary Authority on 29.7.1998 (Annexure-A) and confirmed by Appellate Authority vide order dated 31.1.2000 (Annexure-A-1(a)). The learned counsel for the Applicant has taken all the points raised in the OA for quashing the order passed by the Disciplinary Authority and confirmed by the Appellate Authority. On behalf of the other side, the learned counsel Shri V.S. Masurkar has also taken all the grounds given in

....2/-

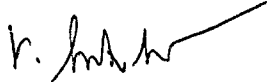
his counter controverting the same that there was nothing wrong in the orders so passed by the concerned authorities and so this OA has no legs to stand and the same is liable to be dismissed.


2. During the course of arguments, the learned counsel for the Applicant submitted that specific ground was taken ~~and also~~ in memo of appeal so preferred by the Applicant against the impugned orders so passed by the Disciplinary Authority that it was a case in which Applicant was deprived of the possibility of having regular enquiry in the case but by the plain reading of the order so passed by the Appellate Authority it transpires that the Appellate Authority has not bothered to look into ^{of this} prayer made in the memo of appeal, rather has confirmed the order of punishment passed by the Disciplinary Authority and this can well be said to be bad in law.

3. After hearing the lawyers of both sides and after carefully going through the orders so passed particularly the order passed by the Appellate Authority, we find that the ground so taken by the Applicant in his memo of appeal, ^{detailed in paragraphs 8 and 13} has not been considered in the hands of the appellate authority. At least the Appellate Authority would have assigned reason as to why he has not considered the same. Since the order passed by the Appellate Authority is not a speaking order, ^{on this issue} we feel that the matter is to be reconsidered.

4. In the background of the facts stated above and the arguments so made on behalf of the learned counsel for the applicant and the respondents, we set aside the order so passed by the Appellate Authority on 31.1.2000 (Annexure-A-1 (a) and remand the matter back to the Appellate Authority to pass a speaking order in accordance with law as also to take into consideration the point so raised in the memo of appeal not discussed while passing the impugned order in the hands of the Appellate Authority ^{or as detailed above} within a period of three months from the date of production ^{of} _{in} this order. The matter stands accordingly disposed of.

5. Parties shall bear their own costs.


(V.Srikantan)
Member(A)


(B.N.Singh Neelam)
Vice Chairman