

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 513/97

Date of Decision : 1.6.2001

D.R.Bhosale Applicant

Shri S.P.Kulkarni Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri S.S.Karkera for Advocate for the
Shri P.M.Pradhan Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

The Hon'ble Shri Govindan S. Tampi, Member (A)

- (i) To be referred to the reporter or not ? ✓
- (ii) Whether it needs to be circulated to other
Benches of the Tribunal ? X
- (iii) Library ✓


(GOVINDAN S. TAMPI)
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.513/97

Friday this the 1st day of June,2001

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Shri Govindan S.Tampi, Member (A)

Dnyaneshwar Ramchandra Bhosale,
Postal Assistant,
Baramati Post Office,
Baramati.

...Applicant

By Advocate Shri S.P.Kulkarni

vs.

Union of India through

1. Director of Postal Services,
Office of the Postmaster General,
Pune Region, Near C.T.O. Camp,
Pune.
2. Superintendent of Post Offices,
Moffussil Division, Swargate,
Pune Head Post Office,
Pune.

...Respondents

By Advocate Shri S.S.Karkera
for Shri P.M.Pradhan

O R D E R (ORAL)

{Per: Shri Govindan S.Tampi, Member (A)}

Shri Dnyaneshwar Ramchandra Bhosale, applicant has
challenged the orders dated 30.11.1995 passed by the Disciplinary
Authority and 16.5.1996 passed by the Appellate Authority.

..2/-

2. Heard Shri S.P.Kulkarni and Shri S.S.Karkera for Shri P.M.Pradhan, learned counsel respectively for the applicant and the respondents.

3. In this case, proceedings have been initiated against the applicant working as a Postal Assistant in Baramati Post Office, by chargesheet dated 6.11.1995, for using intemperate language in a representation addressed to the Chief Postmaster General, Maharashtra Circle, Bombay, ^{against} Superintendent of Post Offices, Baramati who is the disciplinary authority himself, issued the chargesheet, completed the proceedings and passed the impugned order, dated 30.11.1995 by which the pay of the applicant was reduced by one stage from Rs.2000/- to Rs.1950/- for a period of one year without cumulative effect. The applicant filed an appeal against the same on 27.12.1995, and followed it up ^{by} by supplementary appeal on 3.1.1996. However, the appellate authority by its order dated 16.5.1996 rejected the appeal. Hence this application.

4. The pleadings raised on behalf of the applicant in the application and also during the submissions today before us ^{is} that the proceedings have been initiated, conducted and decided upon by the Superintendent of Post Offices, against whom the alleged intemperate language, ^{was} used in the complaint addressed to CPMG. Thus it is a case where the Superintendent of Post Offices, the disciplinary authority had taken upon himself the job of both the prosecutor and the judge as the contents of the

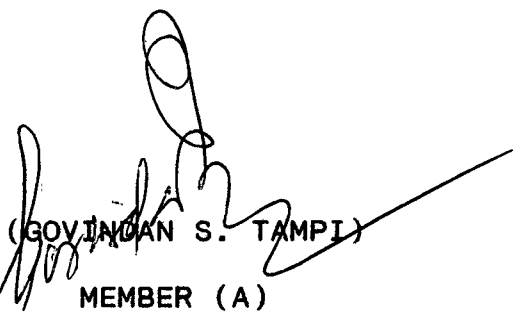
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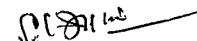
~~actual~~ letter addressed to the Chief Postmaster referred to the very same Superintendent. That being the case, the concerned authority should have refrained from taking action. In fact, on an earlier occasion also the same disciplinary authority had initiated proceedings and penalised ^{by} ~~the~~ member of the staff, but the appellate authority had by its order dated 30.6.1993 set aside the punishment order on the ground that disciplinary authority should not have decided the case as the allegation was in fact made against him. What Shri Kulkarni, learned counsel for the applicant requests is that in the circumstances of the present case as well, a similar decision should have been taken, and therefore the appellate authority ^{by not doing so} also had acted in an incorrect and improper manner while upholding the order. Shri Karkera, learned counsel appearing for the respondents does agree that the specific complaint made by the applicant actually referred to very same disciplinary authority but he says that appellate authority had dealt with all the points raised in the appeal and that the objection was not raised by the applicant before the disciplinary authority.

5. We have carefully deliberated on the points raised by the learned counsel. We find that the proceedings have been initiated against the applicant in this case, by way of chargesheet dated 6.11.1995 issued by Superintendent of Post Offices, Baramati stating that the applicant has resorted to use of intemperate language in the letter submitted by him to Chief

Postmaster, casting aspersions on the ^{method of} working or ~~method~~ of the Superintendent of Post Offices, Baramati. Evidently the very same individual whose conduct has been indicted in the complaint, has initiated the chargesheet, conducted the proceedings and decided the case. He was thus the judge in his own cause. Still the appellate authority has confirmed the same without taking cognizance of the supplementary appeal, wherein reference was invited to an identical case - relating to Shri D.S. Agawne dated 30.6.1993 - involving the same disciplinary authority. This was incorrect. There is considerable merit in the pleas raised by the learned counsel for the applicant. The disciplinary authority should not have proceeded with the proceedings as he was the complainant in the case but should have brought the case to the notice of higher authorities to consider the need for initiating disciplinary proceedings, if felt needed, through another officer. He did not do so. The appellate authority should therefore considered the issues, specifically, as it has been raised in the supplementary appeal and taken the decision, keeping in mind the fact that the original order was issued by the disciplinary authority who was himself in fact the complainant. He has also failed to do so. Both the orders are therefore bad in law and deserve to be quashed and set aside.

6. In the result, the application succeeds and is accordingly ordered. The impugned orders dated 30.11.1995 and 16.5.1996 are quashed and set aside. This, however, does not come in the way of the respondents taking any further action if felt/needed as provided under the law. No costs.


(GOVINDAN S. TAMPI)
MEMBER (A)


(S.L. JAIN)
MEMBER (J)

mrj.