

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.639/94. Date of order: 9/8/2001

Harpal Singh, S/o Sh.Baktawar Singh, R/o H.M.Singh,
Plot No.3, P&T Colony, Civil Lines, Ajmer, Ex-
Postman.

...Applicant.

Vs.

1. Union of India through Secretary, Deptt.of Posts,
Govt of India, Dak Bhawan, New Delhi.
2. Sr.Supt. of Post Offices, Ajmer Division, Ajmer.
3. Director Postal Services, Rajasthan Eastern Region,
Ajmer.

...Respondents.

Mr.Shiv Kumar : Counsel for applicant

Mr.D.K.Swamy, Proxy of Mr.Bhanwar Bagri - for respondents.

CORAM:

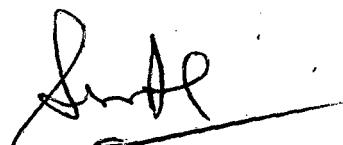
Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer (i) to quash and set aside the charge sheet dated 7.6.92 (Annex.A1), NIP dated 9.2.93 (Annex.A2) imposing penalty of dismissal from service and the order of appellate authority confirming the order of disciplinary authority dated 11.8.93 (Annex.A3) and; (ii) to direct the respondents to reinstate the applicant in service with all consequential benefits.

2. Facts of the case as stated by the applicant are that a memorandum of charge sheet dated 7.6.92 was served upon the applicant for violating Rule 3(i)(ii) & (iii) of the CCS(Conduct Rules, 1964. Enquiry Officer was appointed.



It is stated that the applicant was held guilty as per enquiry report Annex.A5 and punishment of dismissal from service of the applicant was imposed by the disciplinary authority vide order dated 9.2.93. The applicant filed appeal but the same was rejected. It is stated that the applicant was suffering from mental disease and was taking treatment from Psychiatry department of JLN Hospital, Ajmer and the respondents conducted enquiry when he was mentally disturbed. None of the material witnesses were examined by the prosecution and the applicant was not given any opportunity to cross examine the witnesses, therefore, there has been gross violation of principles of natural justice. It is also stated that the respondents' department dismissed the applicant from service on the basis of admission of guilt when the applicant was suffering from mental disorder to which the respondents also admitted. It is stated that the punishment awarded to the applicant is arbitrary, illegal and disproportionate to the gravity of the charge, therefore, the same is not sustainable in law. Therefore, the applicant filed this O.A for the relief as above.

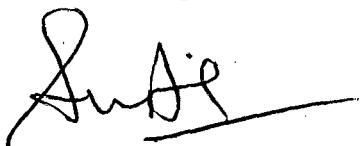
3. Reply was filed. In the reply, it is stated that the O.A is barred by limitation as the order rejecting the appeal of the applicant was passed on 11.8.93 whereas the O.A was filed much after expiry of the period of limitation. It is denied that the applicant was suffering from mental disorder. It is also denied that the Enquiry Officer held the applicant guilty of the charges on the basis of surmises and conjectures. It is stated that the applicant himself has admitted the charges at various levels and thereafter enquiry was conducted in which the applicant was held guilty and the disciplinary authority imposed punishment on the

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basis of the charges proved against the applicant. It is stated that full opportunity to defend the applicant was given during the enquiry and in no way the principles of natural justice have been violated and the enquiry was conducted strictly in accordance with the rules. It is stated that looking to the gravity of the charges proved, the punishment of dismissal from service was not disproportionate, therefore, the applicant has no case for interference by this Tribunal and this O.A is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant vehemently argued that on the basis of admission of charge by the applicant the Enquiry Officer held guilty and no evidence was recorded to substantiate the charges levelled against the applicant, therefore, the punishment so imposed on the applicant is not sustainable in law. In support of his contention, he has referred S.R.Shivharan Vs. Union of India & Ors, 2001(1) ATJ 335 and Annamalai & Ors Vs. Regional Manager, Region IV State Bank of India, 1(1988) ATLT (HC) 406. On the other hand, the learned counsel for the respondents has submitted that after admission of guilt by the applicant, a detailed enquiry was conducted after following the rules/procedure and the applicant was also given opportunity to defend his case and thereafter the Enquiry Officer held the applicant guilty of the charges and in view of this the disciplinary authority imposed the punishment of dismissal from service of the applicant which is not at all disproportionate to the gravity of the charge proved against the applicant.

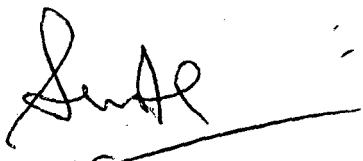


6. We have given anxious consideration to the rival contention of the parties and also perused the whole record.

7. Undisputedly, the applicant admitted the charges levelled against him before the enquiry officer on 22.12.92 by filing an application in writing and requested that before passing any order of punishment the circumstances of the applicant may be looked into. Thereafter, the enquiry appears to have been closed by the Enquiry Officer. It also appears that the disciplinary authority thereafter ordered to make detailed enquiry and the Enquiry Officer examined the prosecution witnesses and after perusal of evidence and documents produced before him and the admission made by the applicant, held the applicant guilty of the charges and submitted the report before the disciplinary authority who after serving copy of the enquiry report to the applicant, gave him an opportunity to file his representation and thereafter imposed the punishment of dismissal of the applicant from service. Therefore, we can safely say that the applicant was not found guilty only on the basis of his admission of guilty but oral as well as documentary evidence were also taken in to consideration before holding the applicant guilty of the charges and on the basis of material available before the Enquiry Officer, the applicant was found guilty.

8. In T.Narayanan Vs. Dy.Chief Mechanical Engineer Carriage & Wagon Works, Madras & Ors, 1999(1) ATJ 403, it was held by Madras Bench of the Tribunal that if an employee has admitted the charge it is incumbent on the part of the authorities to prove the charge by placing material before the enquiry officer.

9. In Poonam Chand Vs. UOI & Ors, (1996) 34 ATC 30, the



Jodhpur Bench of the Tribunal held that the applicant charged for unauthorised absence which resulted in dislocation of work. The applicant stated to have deposed before the Enquiry Officer that he remained absent on account of certain family circumstances and also requested for a change of duty. Held on facts, applicant's statement was not admission of charge framed against him.

10. In S.R.Shivharan Vs. UOI & Ors (supra) it was held that admission of fault by the applicant himself is not sufficient to hold the delinquent guilty of the charges and evidence must also be recorded to corroborate the charges levelled against him.

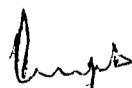
11. In Annamalai & Ors Vs. Regional Manager, Region IV, State Bank of India (supra) it was held that holding of enquiry is necessary even in the case of admission of misconduct if such misconduct merits dismissal.

12. In the instant case, undisputedly after admission of the charges by the applicant, the enquiry was conducted as per procedure and following the principles of natural justice, therefore, we do not find any basis to interfere in the order of the disciplinary authority as well as the order passed by the appellate authority.

13. On the basis of the charges proved against the delinquent, we are also of the considered opinion that penalty of dismissal imposed upon the applicant is not at all disproportionate to the gravity of the charges proved.

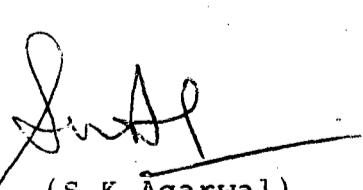
14. We, therefore, do not find any merits in this O.A and the same is liable to be dismissed.

15. We, therefore, dismiss this O.A having no merits with no order as to costs.



(A.P.Nagrath)

Member (A).



(S.K.Agarwal)

Member (J).