IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.308/97 Date of order:04.01.2000

Suresh Narayan Agarwal, S/o Sh.Hari Ram, R/o Gyatri Nagar, Yadav Colony, Ajmer Road, Beawar, posted as Accountant, Head Post Office, Beawar.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt. of India, Deptt of Posts, New Delhi.
2. Post Master General Rajasthan Southern Region, Ajmer.
3. Director Postal Services Rajasthan Southern Regn, Ajmer
4. Supdt.of Post Offices, Beawar Postal Division, Beawar.

...Respondents.

Mr.C.B.Sharma - Counsel for the applicant.

Mr.Hemant Gupta, Proxy of Mr.M.Rafiq -Counsel for respondents.

CORAM:

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

Hon'ble Mr.Gopal Singh, Administrative Member.

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

In this Original Application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set aside the order passed by the disciplinary authority dated 30.8.96 and order of the appellate authority dated 17.4.97 with all consequential benefits. A prayer has also been made to quash the charge memo dated 27.5.96 as the same being vague and based on ficticious complaint.

2. Facts of the case as stated by the applicant are that the applicant while working on the post of Accountant was issued a memorandum of charge sheet dated 27.5.96 under Rule 16 of the CCS(CCA) Rules, 1965. The charges levelled against the applicant are that on 2.4.96 at about 11.00 PM in the night the applicant alongwith 7,8 other postal employees

entered in the Inspection room and misbehaved Shri Damodar Prasad Jain, Asstt.Supdt of Post Offices, Beawar and took him out on the road forcibly and assulted him badly which caused him to take Hospital for treatment. A preliminary enquiry was conducted and punishment was imposed upon the applicant on 30.8.96. The appeal against the order imposing penalty was preferred and was dismissed vide order dated 17.4.97. It is stated that the whole incident is concocted/fictitious and the charges levelled against him are vague. The disciplinary authority himself was a material witness in criminal case filed by him against the applicant and the disciplinary authority has passed the order of punishment without application of mind. It is also stated that the appellate authority also did not consider the appeal in the true spirit. Therefore, the action of the respondents is arbitrary, illegal and unjustified and the same is liable to be quashed. Therefore, the applicant filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that on 2.4.96 the applicant alongwith others entered in the Inspection room and misbehaved and dragged on road Shri Damodar Prasad Jain, Asstt.Supdt of Post Offices, Beawar and assulted him badly. A preliminary enquiry was conducted and thereafter on 13.4.96 an FIR was lodged with the local Police Station. Charge sheet was issued to the applicant on 27.5.96 under Rule 16 of the CCS (CCA) Rules and the enquiry was concluded on 30.8.96. Thereafter a penalty of withholding of one grade increment without cumulative effect was imposed upon the applicant alongwith four others. The applicant filed an O.A before this Tribunal which was dismissed on 17.12.96 with the directions to the applicants to first prefer an appeal and respondents were also directed to decide such appeal if

preferred within a period of two months. The appeal was preferred which was dismissed on 17.5.97. It is stated in the reply that the departmental proceedings were concluded after following the procedure/rules and there has not been any violation of the principles of natural justice while conducting the disciplinary proceedings against the applicant. Therefore, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

4. Rejoinder has also been filed, reiterating the facts stated in the O.A, which is on record.

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

6. Admittedly, on the basis of preliminary enquiry conducted, the punishment was imposed upon the applicant, by the competent authority, withholding one grade increment of the applicant without cumulative effect, for a period of one year.

7. The Court/Tribunal can only interfere in the departmental proceedings where the High Court/Tribunal is of the opinion that there has been denial of reasonable opportunity and/or there has been violation of principles of natural justice and the findings are based on no evidence or the punishment is totally disproportionate to the proved misconduct of an employee.

8. In B.C.Chaturvedi Vs. UOI, 1996(32) ATC 44, Hon'ble Supreme Court, inter alia held that the Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive on its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the preceedings against the delinquent officer in a manner in consistent with the rules of

natural justice or in violation of statutory rules prescribing the mode of enquiry or where the conclusion of finding reached by the disciplinary authority is based on no evidence.

9. In Indian Oil Corporation Vs. Ashok Kumar Arora, (1997) 3 SCC 72, it was held by Hon'ble Supreme Court that High Court in such cases of departmental enquiry and findings recorded therein does not exercise the power of appellate court/ authority. The jurisdiction of the High Court in such cases is very limited. For instance, where it is found that domestic enquiry is vitated by nonobservance of the principles of natural justice: (2) denial of reasonable opportunity, if findings are based on no evidence, (3) punishment is disproportionate to the proved misconduct of the employee.

10. In Kuldeep Singh Vs. Commissioner of Police & Ors, 1999(1) SLR 283, Hon'ble Supreme Court held that the Court cannot sit in appeal over those findings and assume the role of the appellate authority. But this does not mean that in no circumstance can the court interfere. The power of judicial review available to the High Court as also to this Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictate of the superior authority.

11. In Apparel Export Promotion Council Vs. A.K.Chopra, 1999(2) ATJ SC 327, Hon'ble Dr.A.S.Anand, Chief Justice, observed that High Court cannot substitute its own conclusion with record to the guilt of the delinquent for that of departmental authorities unless the punishment imposed by the authorities is either impermissible or such that it shocks the conscience of the High Court.

12. On the basis of above legal position, it can be only said that it is not open for the Tribunal to appraise the evidence and then give a different conclusion other than the competent authority. The Tribunal can only interfere if the enquiry was conducted not in accordance with the rules or there has been violation of principles of natural justice while conducting the enquiry or the punishment imposed has been disproportionate to the gravity of the charge.

13. In the instant case, we are of the considered opinion that the competent authority after application of mind has imposed the punishment upon the applicant and the appellate authority while disposing of the appeal has acted after full application of mind and dismissed the appeal filed by the applicant. In our considered view the punishment imposed upon the applicant is not disproportionate to the gravity of the charge.

14. We have also considered the arguments of the learned counsel for the applicant regarding competency of the disciplinary authority and appellate authority while imposing the punishment and deciding the appeal and we are of the considered view that the competent authority (discilinary authority) has imposed the punishment upon the applicant vide order dated 3.8.96 and the competent authority (appellate authority) has disposed of the appeal vide order dated 17.4.97 is legal and valid.

15. We, therefore, do not find any reason to interfere in the aforementioned orders Annx.A1 and Annx.A2 or in other words we do not find any infirmity or illegality in the impugned orders dated 30.8.96 and 17.4.97. Therefore, there is no basis to interfere and the O.A devoid of any merit is liable to be dismissed.

16. We, therefore, dismiss the O.A having no merits with no

order as to costs.

(Gopal Singh)
Member (A).

(S.K.Agarwal)
Member (J).