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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.326/97

Date of order:8.11.2000

D.P.Sharma, S/o Sh.Chiranjilal, R/o Plot No.779, Barkat Nagar,
Tonk Phatak, Jaipur, presently posted as Postal Assistant, Jaipur.

...Applicant.

Vs.

1. Union of India through the Secretary to the Govt of India, Deptt.
of Posts, Mini. of Communication, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Director Postal Services, Jaipur Region, Jaipur.
4. Asstt.Director Postal Life Insurance, O/o CPMG, Rajasthan Circle,
Jaipur.

...Respondents.

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

Mr.M.Rafiq - Counsel for respondents.

CORAM:

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

Hon'ble Mr.Gopal Singh, Administrative Member

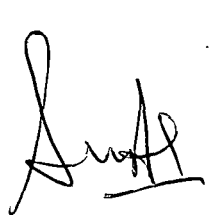
PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

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 following:

- i) the order of reviewing authority dated 2.8.96 (Annx.A1) with order dated 28.1.94 (Annx.A16) issued by respondent No.1 by which petition of the applicant was rejected;
- (ii) the order of the appellate authority dated 29.3.93 (Annx.A14) and order dated 30.10.92 of disciplinary authority; and
- (iii) charge memo dated 21.7.92 (Annx.A8).

applicant

2. In brief facts of the case as stated by the applicant are that /
while working on the post of Development Officer, PLI, filled two proposals, one of Shri Rupa Damor, EDMC, Vikas Nagar and another of Shri Laxman Singh Chauhan, EDDA, Bankoda, in the prescribed form and



submitted in the office of the respondents. It is stated that as per rules no proposal could be submitted from the official who crossed the age of 50 years at the time of filling the proposal. But the said proposals were obtained by the applicant as the persons in whose name the proposal was filled were below the age of 50 years. Later on these proposals were found ineffective and were cancelled.

3. A memorandum of charge sheet was issued under Rule 16 of the CCS(CCA) Rules, 1965 by respondent No.4 to the applicant. The applicant submitted reply in defence. The Inquiry Officer was appointed and after enquiry, respondent No.4 imposed the punishment for stoppage of next one increment for a period of two years without cumulative effect vide order dated 30.10.92. Thereafter, appeal was filed before respondent No.3 who also rejected the same vide order dated 29.3.93. The applicant submitted petition to respondent No.1 stating that rule invoked in the charge memo is not applicable and also raised so many grounds but rejected the petition vide order dated 28.1.94. Thereafter, the applicant submitted review petition under the provisions of Rule 29A of the CCS(CCA) Rules but the same was also rejected vide order dated 2.8.96. It is further stated that no loss was sustained to the department at any stage of proceeding and the respondent did not consider the submissions made by the applicant in appeal. It is also stated that the punishment is excessive looking to the past services of the applicant, therefore, the applicant filed the O.A for the relief as mentioned above.

4. Reply was filed. In the reply, it is stated that while working as Development officer, PLI, the applicant obtained two proposals in contravention of Rule 13 of Post Office Insurance Fund Rules from S/Shri Rupa Damore, EDDA, Vikas Nagar and Laxman Singh, EDDA, Bankoda, who had crossed the maximum age limit of eligibility i.e. 50 years. It is stated that the disciplinary authority after considering the representation of the applicant, imposed the penalty of with-holding of one increment for a period of two years without cumulative effect and appeal and review

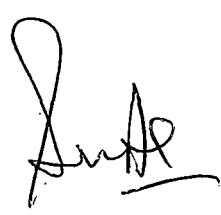
S. A.

petition filed against the said order of penalty were detailed orders and after considering every point, these orders have been passed. It is also stated that the punishment imposed upon the applicant is not disproportionate to the gravity of the charge and during the enquiry there has not been any violation of rule/principles of natural justice. Therefore, the applicant is not entitled to any relief sought for and this O.A is devoid of any merit is liable to be dismissed.

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

6. On the perusal of the averments of both the parties and after perusal of whole record, it appears that while conducting the enquiry, there has not been violation of any rule which ^{can be} said to prejudice the applicant. In the same way, we are also of the opinion that there has not been any violation of principles of natural justice while conducting the enquiry against the applicant. Charges against the applicant are that while working as Development Officer, PLI, he obtained two proposals in contravention of Rule 13 of the Post Office Insurance Fund from S/Shri Rupa Damor and Laxman Singh, who had crossed the maximum age limit of eligibility, i.e. 50 years. The Inquiry Officer, after considering the whole evidence, found the applicant guilty and the disciplinary authority after considering the representation of the applicant, awarded him the penalty of with-holding of one increment for a period of two years without cumulative effect. It also appears that the appellate authority and the authority in review and revision also considered the appeal and petition in detail and passed speaking orders, therefore, the order passed in appeal, review and revision cannot be said to be nonspeaking. On a perusal of the whole record and after hearing the arguments of both the parties, we are also of the opinion that the punishment imposed upon the applicant cannot be said to be disproportionate/excessive, looking to the gravity of the charge.

7. In Kuldeep Singh Vs. Commissioner of Police & Ors, 1999(1) SLR283, it was held by Hon'ble Supreme Court that normally the High Court and

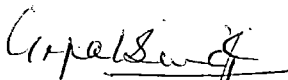


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Tribunal would not interfere with the finding of fact recorded at the domestic enquiry but if the finding of guilt is based on no evidence, it would be perverse finding and would be amenable to judicial scrutiny.

9. On the basis of above, we do not find any ground to interfere with the impugned orders passed by the concerned authority and this O.A having no merit is liable to be dismissed.

10. We, therefore, dismiss the O.A with no order as to costs.


(Gopal Singh)

Member (A).


(S.K. Agarwal)

Member (J).