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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.72/97

Date of order: 26.5.1997

Radha Hishan Dagar : Applicant

Vs.

1. Union of India through Secretary to the Govt. of India, Deptt. of Posts, Ministry of Communication, New Delhi-110001.
2. The Chief Postmaster General, Rajasthan Circle, Jaipur
3. The Director Postal Services, Raj.Southern Region, Ajmer.
4. Sr.Suptd.of Post Offices, Kota Division, Kota-324002.
5. Shri M.L.Punamia, Ex- Senior Suptd. of Post Offices, through the Suptd.of Post Offices, Kota Division, Kota.
6. Shri Shiv Prasad Chaurasia, Enquiry Officer, Inspector of Post Offices (West) Kota.

...Respondents.

Mr.V.B.Srivastava - Counsel for the applicant

Mr.M.Rafiq - Counsel for the respondents.

CORAM:

Hon'ble Mr.Gopal krishna, Vice Chairman

Hon'ble Mr.O.P.Sharma, Administrative Member.

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri Radha Hishan Dagar has sought relief on several counts with regard to the disciplinary proceedings initiated against him by issue of a charge sheet to him. However, at the stage when question of issuing notices to the respondents regarding admission arose, the learned counsel for the applicant stated that the application should be treated as having been confined to the prayer for change of the Enquiry Officer. Accordingly, notices were issued to the respondents.

2. The learned counsel for the respondents states that he has filed the reply to the O.A to day and have given a copy thereof to the learned counsel for the applicant. The reply has been taken on record.

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3. The applicant vide Annx.A7 dated 2.9.96, prayed to the Director, Postal Services, respondent No.3, that the Enquiry Officer may be changed on account of the various grounds mentioned in the said communication. Vide Annx.A8 dated 2.12.96 the Director, Postal Services, has passed an order rejecting the prayer of the applicant for change of the Enquiry Officer. The applicant is aggrieved that while he had sought examination of 42 witnesses as his defence witnesses for which he had given reasons in Annx.A5 and had also asked for production of certain additional documents vide the aforesaid annexure, his prayers have been summarily rejected by the Enquiry Officer without assigning adequate reasons. On account of this rejection of the applicant's prayers, the applicant has alleged that the Enquiry Officer is biased against him and therefore he has sought change of the Enquiry Officer. The respondents have stated that it is for the Inquiry Officer to consider the prayers of the applicant and take a decision thereon. Since the applicant was aggrieved with the decision of the Enquiry Officer, he had approached the Director, Postal Services, respondent No.3 who had also passed an order rejecting the prayer of the applicant for change of the Enquiry Officer and in this order the Director, Postal Services had dealt briefly with the grounds of the applicant seeking change of the Enquiry Officer. Therefore, the respondents have urged that there is no case for intervention of the Tribunal at this stage.

4. We have heard the learned counsel for the parties and have perused the material on record. The ground urged for change of the Enquiry Officer is that the Enquiry Officer has rejected the applicant's prayer for permitting certain persons to appear as his defence witnesses and is also on account of his non-acceptance of the applicant's prayer for production of certain additional documents. The decision of the Enquiry

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Officer may or may not be justified on merit but we cannot adjudicate on it at the interlocutory stage. Merely because the Enquiry Officer has taken a decision which does not appeal to the applicant on merits, it cannot be said that the Enquiry Officer is biased against the applicant. After the Enquiry Officer has finalised his report and he submits it to the disciplinary authority, the disciplinary authority will give a copy thereof to the applicant in accordance with the rules, for giving his comments thereon, before a final order is passed. If the applicant is aggrieved by the final order passed by the disciplinary authority, he will naturally be free to come to the Tribunal again with his grievance, as per rules. We are of the view that there are no justifiable grounds requiring our intervention at this stage. We however expect that the enquiry will be conducted strictly in accordance with the prescribed rules.

5. With the above observations, the O.A is disposed of at the stage of admission with the consent of the parties. There shall be no order as to costs.


(O.P.Sharma)

Administrative Member


(Gopal Krishna)

Vice Chairman.