

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 352/1999.

Date of decision:

Rohitas Petitioner

Mr. P. N. Jatti Advocate for the Petitioner

Versus

Union of India and Others Respondents.

Mr. Arun Chaturvedi Advocate for Respondents.

CORAM:

Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

Hon'ble Mr. A. K. Bhandari, Administrative Member.

- 1. Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporter or not?**
- 3. Whether their Lordships wish to see the fair copy of the Judgement?**
- 4. Whether it needs to be circulated to other Benches of the Tribunal?**

(A. K. Bhandari)
Adm. Member

(G.L. GUPTA)
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 91-10-13

Original Application No. 352/1999.

Rohitas S/o Shri Nanag Ram, by cast Harijan, aged about 38 years, resident of Family Line, Near T.V. Tower Scheme No.3, Alwar.

... Applicant.

versus

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Postmaster General, Rajasthan Circle, Jaipur-7.
3. Superintendent, Post Offices, Alwar Division, Alwar.
4. Senior Supdt. Post Offices, Jaipur City Dn. Jaipur.

... Respondents.

Mr. F. N. Jatti counsel for the applicant.
Mr. Arun Chaturvedi, counsel for the respondents.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.
Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R :
(per Hon'ble Mr. G. L. Gupta)

The applicant calls in question the order of the Disciplinary Authority dated 23.01.1993 (Annexure A-14) and the Appellate Order dated 13.07.1998 (Annexure A-1). By the impugned orders the penalty of removal has been imposed.

2. The applicant was Extra Departmental Agent, Burja. A charge sheet was served on him vide order dated 04.11.1996 (Annexure A-5). It was alleged that he did



not credit the amount received by him by the depositors in the post office Ledger and embezzled the same and thus violated Rules 131 and 174(2) of the Postal Manual. The applicant denied the charges. An enquiry was held. After the evidence was recorded the Enquiry Officer held the charges proved and the Disciplinary Authority imposed the penalty of removal which was affirmed by the Appellate Authority.

2.1 The say of the applicant is that the procedure prescribed for the enquiry was not followed and he was not allowed the assistance of the defence nominee.

3. In the reply, the respondents' case is that the enquiry was held in accordance with the procedure provided in the rules and that the witnesses were examined in the presence of the applicant and he did not raise any objection. It is also stated that when the applicant wanted to change the defence nominee his request was accepted.

4. We have heard the learned counsel for the parties and have perused the documents placed on record.

5. It is seen that the applicant pleaded no guilty on 07.01.1997. He did not file written reply refuting the charges. The enquiry was adjourned on some dates. On 21.07.1997, the applicant was present but his defence nominee Shri H. S. Sekhawat did not attend the proceedings. It seems that the applicant did not make a request of adjournment on that date, and participated in the enquiry by remaining present there. He,

A handwritten signature in black ink, appearing to read "L. M. Singh", is written over a curved line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

however, did not cross examine all the witnesses, yet cross examined some witnesses. The Enquiry Officer put some questions to the witnesses in their cross examination. The witnesses were examined on 21.07.1997, 22.07.1997 and 23.07.1997. On none of these dates the applicant filed an application for adjourning the case on the ground that his defence nominee had not come.

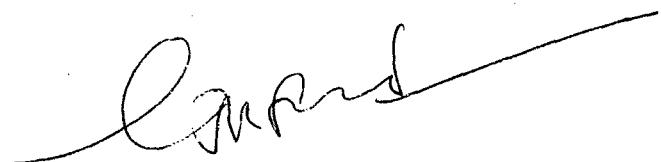
5.1 It seems that on 14.08.1997, the applicant informed the Enquiry Officer that Shri Sekhawat, his defence nominee, had refused to appear. On that date, he filed an application stating that Shri C. M. Parashar be appointed as defence nominee. Shri Parashar being retired person, the Enquiry Officer did not allow the application stating that he could not be allowed to appear as defence assistant under Rule 14 (8) (a) of the CCS Rule and the applicant was free to nominate some other person. Yet on the next date of hearing i.e. 11.09.1997 the applicant wanted that Shri Parashar was appointed as his defence nominee. His request was accepted by the Enquiry Officer. At that time, the enquiry was at the defence stage. On 12.09.1997 the enquiry was adjourned on the request of the applicant so that he could contact Shri Parashar. On the next date of hearing i.e. 22.09.1997 Shri Parashar did not appear. Yet one more opportunity was given to the applicant and the enquiry was adjourned to 17.10.1997. On 17.10.1997 Shri Parashar attended the enquiry but he did not think it necessary to examine the two defence witnesses. On that date an application was



filed to recall the witnesses of the department for cross examination. This application was rejected on the ground that the applicant had already been given the opportunity to cross examine the witnesses.

6. A perusal of the proceedings goes to show that the enquiry was conducted following the procedure prescribed for enquiry. It is wrong to contend that the applicant was denied the assistance of the defence nominee. As a matter of fact, on his request Shri H. S. Sekhawat was appointed as defence nominee, but he failed to appear on the dates fixed for enquiry despite information. When Shri Sekhawat did not appear the applicant did not file an application for adjourning the enquiry. On 21.7.1997, the Enquiry Officer was not informed that Shri Farashar had refused to appear in the enquiry. The applicant was given opportunity to cross examine the witnesses. He did not avail of that opportunity in respect of some of the witnesses. It cannot be said that no opportunity was given to the applicant to cross examine the witnesses of the department. When the applicant filed an application for engaging another defence nominee, it was allowed. In our opinion, there was no illegality or even irregularity conducted by the Enquiry Officer. The Enquiry Officer did not commit any mistake when he refused to recall the witnesses for cross examination, as the applicant had already been given opportunity to cross examine the witnesses.

7. Thus there was no flaw in the procedure held in

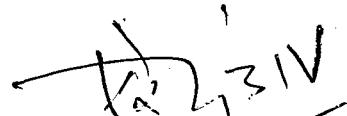


the conduct of enquiry.

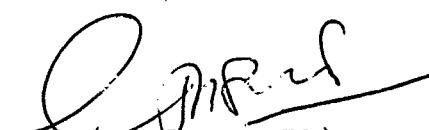
8. The findings arrived at by the Disciplinary Authority and affirmed by the Appellate Authority, are based on the evidence produced. The scope of judicial review in the matter of Departmental enquiry is very limited. There is no cause to take a view different than the one taken by the Disciplinary Authority.

9. Looking to the gravity of the misconduct proved, the penalty of removal cannot be said to be harsh.

10. For the reasons aforesaid, we find this OA devoid of merit and dismiss it. No order as to costs.


(A. K. BHANDARI)

MEMBER (A)


(G. L. GUPTA)
VICE CHAIRMAN