

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH : JAIPUR

Date of Order : 20-4-2004

Original Application No. 298/2002.

Mool Chand Verma S/o Shri Fanchu Ram by cast Verma, aged about 56 years, resident of Bhadonka Mohalla, Bassi.

... Applicant.

v e r s u s

1. Union of India, through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur-7.
3. Senior Superintendent, Post Offices, 'JP' City Dn. Jaipur.

... Respondents.

Mr. P. N. Jatti counsel for the applicant.  
Mr. Tej Prakash Sharma counsel for the respondents.

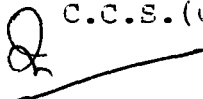
CORAM

Hon'ble Mr. J. K. Kaushik, Judicial Member.  
Hon'ble Mr. A.K. Ehandari, Administrative Member.

: O R D E R :  
(per Hon'ble Mr. J. K. Kaushik)

Mool Chand Verma has filed this Original Application assailing the orders dated 22.06.2001 (Annexure A-1), order dated 16.01.1996 (Annexure A-7) and order dated 18.12.1997 (Annexure A-9) and has prayed for their quashment with all consequential benefits.

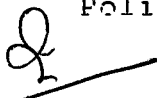
2. The brief facts necessitating filing of this OA are that the applicant while working on the post of Postal Assistant in City Division, Post Office, Jaipur, was faced with a charge sheet under Rule 14 of the C.C.S.(CCA) Rules, 1965, issued vide Memo



dated 15.02.1998. A detailed enquiry was conducted and the disciplinary proceedings were culminated into imposition of the penalty of removal from service vide order dated 16.01.1996. He unsuccessfully preferred an appeal, which came to be rejected vide order dated 18.12.1997.

3. The further facts of the case are that regarding the same incident a criminal case was against him and a F.I.R. was lodged with the Police Station at Ashok Nagar on the charges grounded on the same set of facts and in the same incident the so called grounds mentioned in Para 5, its sub paras are nothing but narrating all factual aspect of the matter. In the criminal case, the Challan was filed and a Case No.1088/88 was instituted against him in the Court of Additional Chief Judicial Magistrate No.5, Jaipur City Jaipur, for the alleged offences under Section 409, 467, 468 and 474 IPC. In the said criminal case, the applicant has been acquitted on dated 30.09.2000, wherein the learned ADJ, Magistrate observed that the prosecution has not been able to prove the case beyond doubt and the applicant is acquitted. The applicant made a representation to the respondents on 10.01.2001 annexing thereto a copy of the said judgement and requested them to reinstate the applicant. The applicant has also tried to make averment pointed out certain irregularity in the proceedings conducted in his case. He has also referred to the decision of the Hon'ble Supreme Court in the case of Capt. M. Paul Anthony v/s Bharat Gold Mines Limited (JT 1999 (2) SC 455 and has averred that if on the same set of facts and evidences, an employee was acquitted in a criminal trial, it would be unfair and unjust to allow the findings of the enquiry officer to stand. Therefore, the dismissal of the employee has to be set aside and re-instatement to be ordered. Certain other judgements have also been referred to. Despite that he has not been taken on duty, hence this application.

4. The respondents have contested the case and have filed a detailed counter reply to the OA. Alongwith the reply, they have also filed a copy of the Policy letter dated 16.01.1989, so as to regulate such



matters relating to the departmental enquiry and the criminal proceedings. It has been averred that the charges levelled against the applicant against departmental proceedings and in the criminal proceedings were identical and thus there is no bar for taking simultaneous proceedings. The competent authorities have passed the orders after consideration of all relevant material and have rejected the appeal on merits. The representation of the applicant was duly considered and came to be rejected. Certain details have been given in regard to the disciplinary proceedings conducted in the matter which culminated into the imposition of the penalty of removal from service.

5. We have heard the learned counsel for the parties and have bestowed our earnest consideration to the pleadings and records of this case.

6. Both the learned counsel for the parties have reiterated their pleadings. Learned counsel for the applicant has submitted that since the applicant acquitted in the matter from the criminal case which was passed on to some set of facts. As per the verdict in the Capt. M. Paul's case (supra) the applicant should be reinstated in service by setting aside the order of the removal. He has also endeavoured to point out certain irregularities in the enquiry proceedings. He further submitted that the applicant was not provided with proper opportunities for defending his case. List of the copies of the listed documents were not delivered to him. There was clear violation of Rule 14 (16) (17) (18) in conducting the enquiry.

7. On the contrary, learned counsel for the respondents states that the applicant was given full opportunity to defend his case and he was also satisfied with the proceedings conducted in his case and he was removed from service as early as 1996 and even his appeal was turned down in the year 1997 and he did not challenge the same.

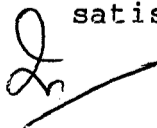
8. We have considered the rival contentions raised



on behalf of both the parties. As far as the facts of the case are concerned the material facts are not in dispute. It is true that after the confronted enquiry, the applicant was imposed the penalty of removal from service. He preferred an appeal which came to be rejected and finally the applicant did not challenge the same for a period more than 5 years. Other facts are also taken into account. We compare the facts of the Capt. M. Paul's case (supra). Before contraverting those facts we find it expedient to notice that the Hon'ble Supreme Court was faced with the same incident. The main concern of the Apex Court was that the ex-parte proceedings were against other circumstances in the case that the applicant therein was not paid any subsistence allowance and due to this reason he could not participate in the disciplinary proceedings. This position is evident from Para 33 of the aforesaid judgement in the contents of the same are extracted as under :-

33. Since in the instant case the appellant was not provided any Subsistence Allowance during the period of suspension and the adjournment prayed for by him on account of his illness, duly supported by medical certificates, was refused resulting in ex-parte proceedings against him, we are of the opinion that the appellant has been punished in total violation of the principles of natural justice and he was literally not afforded any opportunity of hearing. Moreover, as pleaded by the appellant before the High Court as also before us that on account of his penury occasioned by non-payment of Subsistence Allowance, he could not undertake a journey to attend the disciplinary proceedings, the findings recorded by the Inquiry Officer at such proceedings which were held ex-parte, stand vitiated."

Since the applicant in Capt. M. Paul's case could not defend his case and the complete proceedings were held against him, the Supreme Court decided the case in his favour and quashed the very enquiry proceedings held in the disciplinary case. But in the instant case the position is quite different. The applicant was fully satisfied with the disciplinary proceedings. He also preferred an appeal which was duly considered and he was satisfied with the same inasmuch as he did not make any

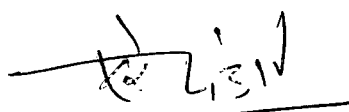


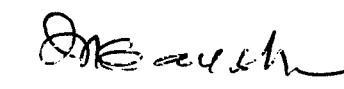
complaint.

9. It was not out of place to point out here that the ratio laid down in the Capt. M. Paul's case (supra), in all cases, of acquittance, <sup>subject</sup> where the acquittal is subsequent to the disciplinary proceedings, <sup>once</sup> there is no embargo on conducting the disciplinary proceedings and criminal proceedings simultaneously and if ~~more~~ <sup>more</sup> acquittal in the criminal case would suffice to nullify the disciplinary proceedings in a criminal manner that would create a chaotic situation and there would be no finality in the decisions and that would lead to unpredictability in the action of the authorities.

10. We are not impressed with the submissions of the learned counsel for the respondents that since the applicant has been acquitted in the criminal case which was based on the same set of facts and on the basis of same incident. Since in the instant case the applicant was extended full opportunity to defend his case and was satisfied with the disciplinary proceedings, the law relating to standard of proof is preponderance of probability in case of disciplinary proceedings and in case of criminal proceedings it is beyond reasonable doubt. Thus, we do not find any arbitrariness, illegality or impropriety in the action of the respondents for rejecting the claim of the applicant for the order of his removal.

11. In the result, the OA is devoid of merits and the same stands dismissed accordingly. However, with no order as to costs.

  
(A. K. BHANDARI)  
MEMBER (A)

  
(J. K. KAUSHIK)  
MEMBER (J)