

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Date of Decision : 16.4.2003.

Original Application No.155/2003.

K.L.Munjal son of Late Shri Banwari Lal, aged about 60 years, resident of 6 Pha-40, Jawahar Nagar, Jaipur and at present working as Accountant Jawahar Nagar, Post Office, Jaipur.

...Applicant.

Versus

1. Union of India through its Secretary, to the Government of India, Department of Posts ministry of Communications Lek Bhawan, New Delhi - 110 001.
2. Chief Post Master General, Rajasthan Circle, Jaipur - 302 007.
3. Senior Superintendent of Post Offices, Jaipur City Postal Division, Jaipur - 302 006.

... Respondents.

Mr.C.B.Sharma counsel for the applicant.

CORAM

Hon'ble Mr. Justice G.L.Gupta, Vice-Chairman,
Hon'ble Mr.A.P.Nagrath, Administrative Member.

O R D E R

(Per Hon'ble Mr.Justice G.L.Gupta)

Applicant was working as Assistant Post Master (Accounts, Jaipur G.P.O. during the period November, 1998 to March, 2001. In that capacity it was his duty to pass Pay Orders on the sanctions. It was detected that the Pay Orders in respect of 16 items had been passed by the applicant on the bogus sanctions which resulted in the pecuniary loss to the Postal Department to the tune of Rs.1,39,946/-. A Charge Sheet was issued to the applicant in February, 2003 alleging that he failed to observe the provisions contained in the P & T Manual and FHE Manual and that he contravened the Instructions issued by the

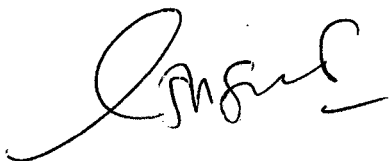
Director General. The applicant calls in question the Charge Sheet through the instant O.A.

2. It is averred that the applicant is at the verge of retirement, as he is to superannuate on 30th June, 2003 yet the Charge Sheet has been issued to him without holding the preliminary enquiry. It is stated that no such action has been initiated against the other officials and the action of the Respondents in charge sheeting the applicant is discriminatory and violative of Article 14 and 16 of the Constitution of India.

3. It is not in dispute that the applicant was the Assistant Post Master (Accounts), Jaipur during the relevant period. It is further not disputed in the O.A. that the applicant had passed the Pay Orders on the 16 sanctions mentioned in the Statement of imputations of mis-conduct (Annexure A-1).

4. The contention of the learned counsel for the applicant is that no charge sheet could be issued without holding preliminary enquiry. His further contention is that the Respondents have dropped the proceedings against other Officers and hence the act of the Respondents in issuing charge sheet to the applicant is discriminatory. Reliance is placed on the decision in the case of K. Sukhendar Reddy vs. State of Andhra Pradesh & Anr. [2003 (3) S.L.J. CAT 386].

5. It is settled legal position that the Courts cannot interfere in the matter of disciplinary proceedings at the stage of issuing the charge sheet. The applicant has an opportunity to file



reply to the charge sheet in which he can take all objections. It is not the case for the applicant that the charge sheet has been issued by an authority not competent to issue the charge sheet.

C 6. As to the contention of preliminary enquiry, it may be stated that it is not laid down in the Rules that charge sheet cannot be issued without holding the preliminary enquiry. The purpose of preliminary enquiry is to collect the material before issuing the charge sheet. If the material is already there on record, it is not required that some formal preliminary enquiry has to be held. In any case, it cannot be said at this stage that no preliminary enquiry was held by the Respondents before issuing the charge sheet.

6 7. As to the contention of discrimination, it may be stated that each case of each employee is required to be seen on the basis of the material against him. If the Respondents have dropped the proceedings against Ramji Lal Soni, it might have been done on the ground of no evidence against him. The averments made in the O.A. indicate that Ramji Lal was also served with a charge sheet and after seeing his reply, the enquiry was dropped against him. The applicant may also file reply to the charge memo, if he has not already filed and the Competent Authority will decide the matter on merits.

8. It is stated that no enquiry has been initiated against Shri A.S.Alwaria and Shri G.S.Meena, Post Masters Jawahar Nagar Head Post Office. There is nothing on record to say that identical material was made available against Shri A.S.Alwaria and Shri



G.S.Meena. Moreover, there is no time limit for initiating disciplinary proceedings for the mis-conduct. It may be that the department may initiate disciplinary proceedings against these two officers after material is found against them.


9. As to the case relied on by Mr. C.S.Sharma, it may be stated that there was a very different fact situation in that case. There the facts were that the applicant had been placed under suspension because of a police case. The matter went up to the Supreme Court and certain observations had been made by the Hon'ble High Court and the Hon'ble Supreme Court. It was noticed by the Apex Court that no disciplinary proceedings were contemplated against the applicant and the suspension of an employee could not be permitted just to exhibit and feign that action against the Officers irrespective of their high status in the service hierarchy would be taken. In the order of the High Court, it was observed that there was prima facie material against senior officers that they did not safeguard the interest of State and that appropriate action would be taken against all erring officials.


10. Apart from the observations of the higher Courts, it was noticed by the Tribunal that the applicant had been discharged by the Criminal Court, by the time the matter was heard by the Principal Bench. It was also noticed that preliminary enquiry was held against the Senior Officers, but no preliminary enquiry was held against the applicant and there was absolutely no material whatsoever, against the applicant as to serve a charge sheet to him. It is on those



peculiar facts that the Court had quashed the charge memo. It is significant to point out that though the charge memo was quashed, it was observed that the State Government was at liberty to take disciplinary action against the applicant therein on the basis of any prima facie reliable material obtained against him. It is manifest that, the applicant therein, had not been exonerated of the charges, but because of the peculiar fact situation, the charge sheet was quashed giving opportunity to the Department to initiate fresh enquiry if material was available. The ruling cannot assist the applicant in the instant case.

11. For the reasons stated above, this O.A. is not worth admission and it is dismissed in limine.


(A. P. NAGRATH)
Member (A)


(G. L. GUPTA)
Vice Chairman

B.