

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR
Original Applications No 687 of 2004

Indore, this the 19th day of August, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Ajay Kumar Roy
S/o Shri D.N. Roy
Date of birth – 6.8.1952
R/o Paralkot
House No.76, P.O Bandey Colony
Tah. Narayanpur,

Applicant

(By Advocate – None)

V E R S U S

1. Union of India
Through its Secretary
Ministry of Communication
Department of Post,
New Delhi.
2. The Chief Post Master General
Chhattisgarh Circle,
Raipur.
3. The Superintendent of Post Officers,
Baster Division,
Jagdalpur. Respondents

(By Advocate – Shri S.P.Singh)

O R D E R

Bv Madan Mohan, Judicial Member -

By filing this Original Application, the applicant has sought the following main reliefs :-

"(ii) Set aside the impugned order dated 21.4.2004
(Annexure-A-1).

(iii) Direct the respondents to reinstate the applicant with all consequential benefits as if the impugned order dated 21.4.2004 Annexure-A-1 has been never passed.



2. The brief facts of the case are that the applicant was initially appointed on 14.8.1975 as Group 'D' employee. He was promoted as Postman and thereafter he was further promoted as Postal Assistant on 7.9.1982 in the pay scale of Rs.4000-6000. He was placed under suspension w.e.f. 11.12.2001 vide order dated 10.12.2001. Thereafter a charge sheet was issued to him on 14.5.2002 (Annexure-A-2). After receiving the charge sheet the applicant submitted a representation on 21.6.2002 whereby he requested to provide 10 days more time to submit reply against the charge sheet. However, he was not given more time to submit reply against the charge sheet and it was decided to conduct a departmental enquiry against the applicant without waiting the reply of the applicant. Thus, the applicant was not given proper opportunity to defend his case. However, he participated in the departmental enquiry. According to the applicant, he was not given sufficient opportunity to bring defence witnesses and the enquiry officer has closed the enquiry on 10.11.2003. A copy of the enquiry officer report was sent to him along with show cause notice dated 4.2.2004 (Annexure.A.3) by the disciplinary authority. Thereafter he submitted his representation on 31.3.2004 (Annexure-A-4) but it was not considered by the disciplinary authority and he was dismissed from service vide order dated 21.4.2004 (Annexure-A-1). The whole action of the respondents is illegal. Hence, this Original Application.

3. None is present on behalf of the applicant. Since, it is an old matter of 2004, we are disposing of this OA by invoking the provisions of Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987. Heard the learned counsel for the respondents and carefully perused the records.

4. The learned counsel for the respondents argued that this OA is not maintainable on the ground that the applicant has not exhausted the departmental remedy which are available to him and he has not filed any appeal against the impugned order dated 21.4.2004 passed

by the disciplinary authority. He further argued that the applicant has already admitted that shortage of Rs.19,900/- in cash balance in his statement dated 8.12.2001. The charges against the applicant are proved and established by the enquiry officer and he was also given due opportunity of hearing. The charges leveled against the applicant are serious in nature and the respondents have conducted the departmental enquiry proceedings in accordance with Rules. Hence, this OA is liable to be dismissed.

5. After hearing the learned counsel for the respondents and on careful perusal of the records, we find that the charges leveled against the applicant are serious in nature. There were proved by the enquiry officer. We also find that the applicant has not exhausted the departmental remedy by filing an appeal against the impugned order of punishment dated 21.4.2004 as provided under Rule 23 of CCS (CCA) Rules, 1965. Section 20(1) of the Administrative Tribunal Act, 1985 stipulates as under :-

“A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances”.

In this view of the matter, we dispose of this OA with a direction to the applicant to file an appeal against the impugned order of punishment within a period of 15 days from the date of receipt of a copy of this order, if the applicant complies with the direction, the respondents are directed to consider and decide the appeal of the applicant by passing a speaking, detailed and reasoned order within a period of three months from the date of receipt of a copy of the aforesaid appeal from the applicant. We further direct ~~to~~ the appellate authority that ~~they~~ shall not take an objection of limitation while deciding the aforesaid appeal of the applicant. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman