

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 28 of 2004

Gandore, this the 10th day of January, 2005

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

Ganga Prasad Shukla, son of late
Motilal Shukla, aged about 50 years,
Post Man (dismissed), R/o. Village
Post Hinuta Tahsil Sirmour District
Rewa, Madhya Pradesh.

.... Applicant

(By Advocate - Shri Harendra Dwivedi)

Versus

1. Union of India, through Secretary,
Ministry of Communication,
Department of Post, Dak Bhawan,
Sansad Marg, New Delhi.
2. Suprintendent, Department of Post,
Rewa Division, Rewa, M.P.
3. Post Master General, Department of
Post, Raipur Circle, Raipur,
Chhattisgarh.

.... Respondents

(By Advocate – Shri P. Shankaran)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

- “i) to issue a writ in the nature of certiorari order dated 27.9.1999, 28.1.2000 and 8.9.2000 may kindly be quashed,
- ii) to issue a writ in the nature of mandamus respondents may kindly be directed to reinstate the applicant back in service,



iii) to issue a writ in the nature of mandamus respondents may kindly be directed to summon the record relating to dismissal from service, for perusal and reference.”

2. The brief facts of the case are that the applicant was appointed as Post Man on 3.3.1977. He was given a charge sheet on 21.9.1998 (Annexure A-1) with regard to misappropriation of Rs. 1,700/- and Rs. 500/- from the account of one Kandhar Singh. He submitted the reply and in a vague manner admitted the guilt as he was advised that he will be dealt with sympathetically and no major penalty will be imposed, although he has not committed any mistake, as the charges were not related with his duties. After admitting the charge the applicant was reinstated in services, vide order dated 4.4.1998 (Annexure A-2). On 30.3.1999 an order was passed whereby he was debarred for promotion for a period of 3 years. The applicant was not supplied the copy of the order dated 30.3.1999. On 23.8.1999 a show cause notice was issued to the applicant, proposing the punishment of dismissal from service on him. He submitted his reply against it and denied the charges. On 27.9.1999 an order of dismissal from service was passed on the applicant. He preferred an appeal which was also dismissed vide order dated 28.1.2000. Again the applicant preferred a revision petition against the order of the appellate authority which was also dismissed vide order dated 8.9.2000.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that order dated 30.3.1999 and subsequent order dated 27.9.1999 are passed by the same authorities, which is apparently illegal. The same authority cannot pass two orders. By earlier order dated 30.3.1999 the promotion of the applicant was debarred only for a period of three years while by the subsequent order dated 27.9.1999 he was ordered to be dismissed from service. The applicant has never admitted the charges but it was advised to him that if



he admits the charges, then sympathetic view shall be taken against him. Hence, this Original Apphication deserves to be allowed.

5. In reply the learned counsel for the respondents argued that the charge sheet was served on him on 21.9.1998. During the enquiry the applicant accepted the charges framed against him and accordingly the enquiry officer submitted his report to the disciplinary authority. The disciplinary authority holding the applicant guilty of the charges imposed the penalty of with holding of promotion for a period of 3 years vide order dated 30.3.1999. On review of the case of the applicant the reviewing authority i.e. the respondent No. 3 issued an order to review the punishment and accordingly the respondent No. 2 issued a show cause notice dated 23.8.1999 to the applicant proposing the enhanced penalty of dismissal from service. The apphcant submitted his representation on 15.9.1999 against the aforesaid notice of enhanced penalty. After considering all the facts and circumstances of the case of the applicant the penalty of dismissal from service was imposed on the apphcant vide order dated 27.9.1999. This penalty of dismissal of the applicant from services was not imposed by the same authority who has issued the order dated 30.3.1999. This is apparently clear from Annexure A-3, notice issued by the Superintendent of Post Office, Rewa Division, Rewa for enhancement of punishment, in which it is mentioned that disciplinary action was taken against the applicant and the Deputy Assistant Inspector (Post), Rewa-I had imposed the penalty of withholding of promotion for a period of three years vide order dated 30.3.1999. The order imposing the penalty of dismissal from service also reveals that the applicant had accepted the charges and hence the penalty of withholding of promotion for a period of three years was passed by the Deputy Assistant Inspector (Post), Rewa-I. The applicant did not prefer any appeal against this order dated 30.3.1999. The respondents further argued that the applicant was given opportunity of hearing and the charges leveled against him were very serious in nature i.e. regarding misappropriation of Rs.1,700/- and Rs. 500/- from the account of one Kandhar Singh. Hence, the Original Application deserves to be dismissed.



7. In view of the aforesaid, we are of the considered opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.


(M.P. Singh)
Vice Chairman

"SA"

Agreed
22.07.07
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