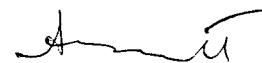


CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Pre-delivery order/ oral order in O.A.No. 386/03
is sent herewith for consideration pl.


(Anand Kumar Bhatt)
Administrative Member

Hon'ble Shri D.C.Verma, Vice Chairman(J)-

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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 386 of 2003

Jabalpur, this the 10th day of July, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

G.P. Simhal S/o Shri Bhagwandasji,
date of birth - 16-5-1949, Store Keeper
P & T Dispensary No.3, Jabalpur,
R/o 256-Sanjivni Nagar, Jabalpur.

APPLICANT

(By Advocate - Shri S.Paul)

VERSUS

1. Union of India
Through its Secretary, Ministry
of Telecommunication, Department
of Post, New Delhi.
2. Chief Post Master General
(Appellate Authority) Chhattisgarh
Circle, Raipur (C.G)
3. Director Postal Services
(Disciplinary Authority), Office
of CPMG, Chhattisgarh Circle,
Raipur (C.G.)
4. Senior Superintendent of Post
Office, Head Post Office,
Civil Lines, Jabalpur.

(By Advocate - Shri K.N. Pathia)

ORDER (ORAL)

By Anand Kumar Bhatt, Administrative Member-

This OA is against the order dated 10.4.2003
(Annexure-A-1) of the appellate authority (respondents
No.2) and the suspension order dated 26.5.2003
(Annexure-A-3) issued by the disciplinary authority
(respondent No.3).

2. The facts of the case are that the applicant
was working as Store Keeper in a dispensary of the
Postal Department. For shortages found in the store
disciplinary proceedings under Rule 14 of the CCS(CCA)
Rules, 1965 were started against the applicant. The

Charges were issued on 10.10.1997 (Annexure-A-5) and the departmental enquiry was conducted. On the basis of the report of the enquiry officer, the applicant was given the punishment of compulsory retirement from Government service vide order of the disciplinary authority dated 29.11.2001 (Annexure-A-4). The applicant went in appeal to the appellate authority. The appellate authority vide his order dated 10.4.2003 (Annexure-A-1) found the enquiry report to be defective, the charges to be incomplete and punishment order sketchy. The appellate authority, therefore, remitted the case back for *de novo* enquiry from the stage of issuing fresh charge-sheet to the applicant. After the issue of appellate order, the disciplinary authority suspended the applicant vide order dated 26.5.2003, whereas during the initial enquiry the applicant was not suspended.

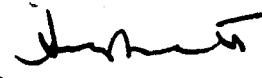
3. The learned counsel of the applicant mainly relied on a previous judgment of this Bench of the Tribunal in OA.No. 1/98, Chhotelal Yadav Vs. Union of India and others, decided on 17.5.1999 in which it was held that it was not permissible for the appellate authority to invoke the provisions of Rule 29(1)(V) of the CCS (CCA) Rules, 1965 to direct *de novo* enquiry after framing a fresh charge-sheet. This judgment of the Tribunal relied on the ruling of the Full Bench of the Tribunal in O.A. 228/1992, Siya Ram Soni and others Vs. Union of India & ors. decided on 21.3.1997. Recently on the same lines this Division Bench has given a similar decision in OA No. 501/2002 on 7.7.2003 in the case of M.S. Farooqi Vs. Union of India and others. In the case of M.S. Farooqi appointment of a fresh enquiry officer and start of enquiry *de novo* by the disciplinary

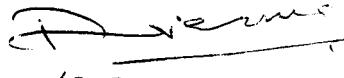
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authority were quashed.

4. On the lines of the decision taken in the above cases which have come before the Tribunal, the order in the instant case dated 10.4.2003 (Annexure A-1) of the appellate authority by which the case has been remitted for *de novo* proceedings from the stage of issuing of fresh charge sheet and the subsequent suspension order of the applicant by the disciplinary authority vide order dated 26.5.2003 (Annexure-A-3) are quashed. The case is remanded to the appellate authority to take a decision on the appeal of the applicant on the basis of existing facts as contained in the order of the disciplinary authority (Annexure-A-4) and the findings of the enquiry officer. The OA is accordingly allowed. No costs.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (Judicial)

RKV

पृष्ठांकन सं. ओ/व्या.....जवलपुर, दि.....
पत्रिलिपि अव्यो धितः—

- (1) सचिव, अध्य न्यायालय, दररामपुरियाज, जबलपुर
- (2) अध्येता वी/वी/जी/जी..... के काउंसल *S. Praveen*
- (3) अध्येता वी/वी/जी/जी..... के काउंसल *K.N. Deltia*
- (4) विधायक, जबलपुर, जबलपुर, मध्य प्रदेश

सूचना एवं अधिकार दिलाई गई

L.K.
मध्य प्रदेश सरकार

16.7.03

Issued
14.7.03
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