

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
(Circuit at Indore)

O.A. NO.803/2003

This the 7th day of March, 2005

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI A. S. SANGHVI, MEMBER (J)

... Applicant

(By Shri Anand Pathak, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Communication,
Department of Posts,
Dak Bhawan, New Delhi.
2. Principal Chief Postmaster General,
Madhya Pradesh Circle, Bhopal.
3. Postmaster General,
Indore.
4. Director, Postal Services,
Indore. ... Respondents

(By Shri S. P. Singh, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

Through this O.A. applicant has assailed punishment of compulsory retirement from service in disciplinary proceedings against him. The learned counsel of the applicant has attacked the above punishment on the following grounds:

(1) While the transaction relating to Vikas Patra was dated 9.12.1998, Shri Anwar Khan who is stated to have purchased the Vikas Patra from the counter of the post office on 9.12.1998, verbally complained regarding manipulation of records to the Superintendent of Post Offices on 12.1.1999

and made formal complaint on 20.9.1999. As such, there has been a long delay in filing of the complaint.

(2) When the signatures of the investor, i.e., Shri Anwar Khan on Ex. P-8 and the agent on the receipts were disputed, the opinion of a handwriting expert ought to have been obtained before arriving at any conclusion by the authorities. The authorities did not take the opinion of the handwriting expert but concluded against the applicant that he had manipulated the records.

(3) There have been contradictions and inconsistencies in the statements of the witnesses.

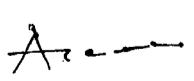
2. The learned counsel of respondents, on the other hand, maintained that the authorities have conducted the proceedings against the applicant by following the relevant rules and the charge against the applicant was brought home. The learned counsel stated that delay in filing of the written complaint against applicant by Shri Anwar Khan cannot have any adverse effect in the matter as the applicant was granted full opportunity of defence and the respondents found the charges proved against applicant on the basis of the oral and documentary evidence adduced against the applicant in the enquiry. The learned counsel pointed out that applicant had not demanded reference to the handwriting expert nor had he himself examined any handwriting expert in defence. The learned counsel stated that the evidence of the agent as well as Shri Anwar Khan was found to be sufficient to establish the charges against the applicant.

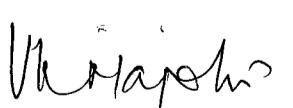
3. We have given due considerations to the contentions made on either side as also perused the material on record.

4. No doubt, there has been some delay between the occurrences dated 9.12.1998 and the verbal and written complaints dated 12.1.1999 and 20.9.1999 respectively made by Shri Anwar Khan, but the delay in question cannot be held to be fatal to the proceedings against the applicant, though respondents ought to have proceeded in the matter without any delay. Applicant has not filed any rejoinder in this case and has also not been able to refute the contentions made on behalf of the respondents that there were no contradictions and inconsistencies in the statements of the complainant and the agent. If there were any such contradictions/inconsistencies in these statements, applicant ought to have brought them out. However, only a general statement was made before the Court which was not established by any evidence.

7. Next, the onus of doubt about the signatures of the complainant as investor as Ex. P-8 and the agent on the receipts cannot be thrown upon the respondents. If the applicant wanted to dispute these signatures, he could not have been prevented from summoning a handwriting expert himself in his defence. He failed to do so. At this stage an objection in this regard shall not lend him any support.

8. In the facts and circumstances of the case, the applicant has not been able to establish claims made by him and as such, the O.A. is liable to be dismissed being without merit. Accordingly, the O.A. is dismissed being bereft of merit. No costs.


(A. S. Sanghvi)
Member (J)


(V. K. Majotra)
Vice-Chairman (A)

/as/

7.3.05