

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR
BENCH, JABALPUR

CIRCUIT COURT SITTING HELD AT INDORE

O.A. NO. 297/1999

Laxminarain Pawar, S/o. Late Shri
Nihalchand, aged 34 years, Ex- E.D.M.C.
(Extra Departmental Agent), R/o. Neem Chowk,
Post Office Kayampur, Tahsil Sitamau,
District Mandsaur, M.P.

..... **Applicant**

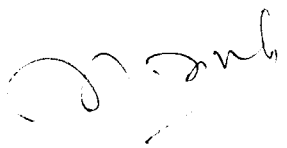
V e r s u s

1. Union of India, through Member,
(Personnel, Postal Service Board),
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi, 110 001.
1. Post Master General, Indore Region,
Indore.
2. Director, Post Services, O/o.
Post Master General, Indore Region,
Indore.
3. Superintendent of Post Offices,
Mandsaur.
4. Sub-Divisional Postal Inspector,
Mandsaur.

..... **Respondents**

Counsel :

Shri D.M. Kulkarni for the applicant.
Shri Vivek Saran for the respondents.



Coram :

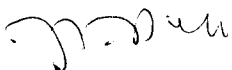
Hon'ble Shri Justice N.N. Singh – Vice Chairman.
Hon'ble Shri Govindan S. Tampi – Member (Admnv.).

ORDER (Oral)
(Passed on this the 18th day of February 2003)

By Hon'ble Shri Justice N.N. Singh – Vice Chairman :-

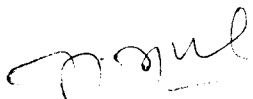
The applicant has filed this Original Application for quashing Annexure A/1 to Annexure A/4 and to reinstate him with retrospective date of his removal from service with consequential benefits and back wages.

2. The case of the applicant is that he was appointed on the post of Extra Departmental Mail Carrier (E.D.M.C.) and was posted at Kayampur on 26/08/1983. The case of the applicant is that on 23/06/1997 he was served with a charge sheet alleging 4 charges by his appointing authority (Annexure A/5) and that the applicant submitted his written statement denying the charges, where upon an enquiry was held and the enquiry officer submitted his enquiry report Annexure A/7 and respondent No. 4 found the applicant partially guilty of charge No. 1, guilty of charge No. 3 & 4 and exonerated the applicant of charge No. 2 and considering the long duration of his service, the disciplinary authority imposed punishment of debarring him from departmental examination for a period of one year by his order Annexure A/1. The case of the applicant is that he was satisfied with the punishment imposed and did not prefer any appeal, but respondent No. 3 suo-motto decided to review the punishment imposed by respondent No. 4 and



without conveying any reason for his disagreement with the order passed by respondent No. 4 and without giving any personal hearing to the applicant by impugned order dated 19/06/1998 (Annexure A/2), he imposed penalty of removal from service. The applicant claimed to have preferred appeal to Director of Postal Services (Annexure A/20), which was dismissed by order Annexure A/3. The applicant claimed to have preferred revision petition to respondent No. 2, ^{which} ~~who~~, too, dismissed the same by his order Annexure A/4. The grounds [✓] taken by the applicant is that he was not given personal hearing by any of the disciplinary or appellate authority which was against the principles of natural justice and respondent No. 4 should have conveyed his reason for disagreement with the findings and punishment imposed by the disciplinary authority by issuing show cause notice affording opportunity to the applicant to explain. According to the applicant the punishment of removal imposed upon him on these grounds was unsustainable and ratio of decision in the case of Punjab National Bank Versus Kunj Behari Mishra reported at 1999(1) SLJ 271 (SC) applies to the facts of the case.

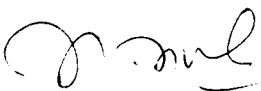
3. The respondents resisted the claim of the applicant by filing reply stating therein that one Shei Rajmal, alias Raju launched a complaint against the applicant that he received a sum of Rs. 4,700/- as return fee of six registered articles and one ordinary envelope which were received in his name for delivery from Narcotics Department quota. On his allegation, a departmental enquiry was conducted against the applicant and the disciplinary authority awarded a penalty of debarring the applicant from appearing in the postman examination for one year. It was claimed that the reviewing authority looking into the gravity of charges reviewed the case and found that the penalty imposed by the



SDI(P), Mandsaur was inadvertent and the case needed enhancement of punishment to that of removal from service and as such show cause notice was issued to the applicant vide memo dated 29/04/1998 asking him to submit his defence within 15 days. It was also claimed that the applicant received the same on 01/05/1998 and submitted his defence on 03/06/1998 and thereafter SPO, Mandsaur awarded punishment of removal from service by Annexure A/2. It was also claimed that the appeal and review petitionⁿ filed by the applicant were rejected.

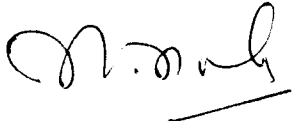
4. A rejoinder was filed by the applicant asserting therein that the reviewing authority before according its own finding on the charge must have recorded tentative reasons for its disagreement which has not been done in this case.

5. We have heard learned counsels of both the sides and have gone through the record. Annexure R/1 is the order passed by the reviewing authority on respect of punishment order passed by the disciplinary authority. In this order the reviewing authority has not mentioned the grounds in which it disagreed with the findings of the disciplinary authority, except that he held the punishment to be inadequate. It was necessary for the reviewing authority to ^{have} give reasons of its disagreement before proposing any enhancement in the ⁿ punishment as held in the case of Punjab National Bank Versus Kunj Behari Mishra reported at 1999(1) SLJ 271 (SC). In this view of the matter we set-aside Annexure A/2 to Annexure A/4 and remand the case to reviewing authority (respondent No. 4) to reconsider the matter and pass the order in accordance with law.



6. In the result this Original Application is allowed and the matter is remanded to the reviewing authority for fresh consideration in accordance with law. There will be no order as to cost.


(GOVINDAN S. TAMPI)
MEMBER (A)


(N.N. SINGH)
VICE CHAIRMAN

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