

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR
BENCH, JABALPUR

CIRCUIT COURT SITTING HELD AT INDORE

O.A. NO. 453/1997

1. Smt. Rukmnibai, wd/o. late Shri Nandkishore Gupta, aged 55 years, r/o. Barwani.
 2. Smt. Lalita Agarwal, w/o. Shri Kumesh Agarwal, aged 30 years, r/o. Dehri Tahsil Kikshi, District Dhar.
 3. Smt. Savita Jain, w/o. Shri Mahendra Jain, aged 28 years, r/o Moti Tabela, House No. 8, Indore.
 4. Smt. Manjula, W/o Shri P:radeep Kumar Agarwal, aged 26 years, r/o. Barwani.
 5. Santosh Gupta, s/o late Shri Nandkishore Gupta, aged 25 years, r/o. Barwani.
 6. Smt. Tanuja Agarwal, W/o. Shri Rajesh Agarwal, aged 22 years, r/o Jat Mohalla, Barwah.
 7. Ku. Manisha Gupta, d/o. late Shri Nandkishore Gupta, aged 20 years, r/o. 14, Boharwadi, Syohash Marg, Barwani District Barwani (M.P.).
- **Applicant**

Versus

1. Union of India through Secretary, Department of Posts, Ministry of Communications, Sanchar Bhawan, Sansad Marg, New Delhi – 110001.
2. The Director, Postal Services, Indore Region, Indore 452001.
3. The Senior Superintendent of Post Offices, Khandwa Division, Khandwa 450 001.

..... **Respondents**

Counsel :

Shri D.M. Kulkarni for the applicant.
Shri B. Dasilva 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 19th day of February 2003)

Shri Govindan S. Tampi :-

This Original Application filed by Nand Kishore Gupta (now deceased) and being perused by his legal representatives is against the orders passed by the disciplinary authority on 31/10/1996 and appellate order dated 31/03/1997.

2. In the proceedings initiated against Nand Kishore Gupta the original applicant, by the disciplinary authority penalty of dismissal was ordered which was upheld by the Appellate authority on the individuals filing OA No. 185/1990. It was indicated by the Tribunal that the order passed by the Superintendent of Post Offices was illegal ^{as} ~~and~~ he was junior in rank to the Senior Superintendent of Post Offices who in fact ^{was} ~~was~~ the authority who issued the charge sheet. The matter, thus having been remanded to the Disciplinary Authority, the successor Senior Superintendent of Post Offices passed a fresh order which is now being challenged. The learned counsel for the applicant has pointed out that the respondents should have conducted the proceedings from the enquiry stage itself and come to a fresh conclusion before taking any decision.

Instead of that the respondents had merely reiterated the findings of his successor in office. This was not sufficient and therefore the proceedings were vitiated, pleads the applicant.

3. Contesting the above Shri B. da Silva points out that perusal of the Tribunal's decision dated 15/03/1996 while disposing of the OA No. 185/1990 makes it clear that the proceedings have to be gone through only from the stage which they got ^{vital} forwarded i.e. the stage of issuance of disciplinary authority's order. The same having been rectified nothing further remained to be done pleads Shri da Silva.

4. We have carefully considered the matter. We note that earlier order passed by the Disciplinary authority in this case was challenged in the OA No. 185/1990, which is disposed of with the following grievances :

"Since in the instant case the only person who could have passed the final order was the Senior Superintendent of Post Offices, who had issued the charge-sheet as the disciplinary & appointing authority, any person equivalent in rank or higher could have passed the final order. Passing of the final order by the Superintendent of Post Offices is not sustainable. Accordingly, the orders of punishment passed by the authority are quashed. The Department shall be free to proceed afresh from the stage of enquiry".

The above makes it very clear that what has been declared as vitiated was passing of the order of the Superintendent of Post Offices, in the capacity of the disciplinary authority, which is wrong, as the relevant charge sheet had been issued by Senior Superintendent of Post Offices who was an authority senior in rank. The Tribunal while disposing of the Original Application had not made any other comments on the merits of the case. That being the decision the defect pointed out by the Tribunal with reference to the earlier order has been duly rectified. The same

cannot be called in question. However we observe that in the allegation indicated in the charge sheet, imposition of the extreme penalties of dismissal and/or removal was not called for, as they hurt and shock the judicial conscience, as brought out in the words of the Hon'ble Supreme Court in the case of B.C. Chaturvedi Versus Union of India and others. The order would therefore warrant some modification so that the legal representatives of the deceased employee, (the charged officer) would become entitled of some mandatory benefits in accordance with law. .

5. In the above circumstances, the OA succeeds marginally and it is accordingly allowed. The impugned order of the disciplinary authority dated 31/10/1996 is quashed and set-aside and remanded to the same authority for consideration of the imposition of any penalty lesser than dismissal and removal. This may be done within a period of 3 months from the date of receipt of copy of this order. No cost.

(Govindan S. Tampi)
Member (Adm.)

(N.N. Singh)
Vice Chairman

पृष्ठांकन सं. ओ/न्या..... नमस्त. दि.....
प्रतिपक्षि. कार्य दि.....

- (1) आदेश जारी दि.....
- (2) आदेश जारी दि.....
- (3) आदेश जारी दि.....
- (4) आदेश जारी दि.....

सूचना एवं आचार्यक कार्यालय

4/8/03

Issued
On 6.3.03
BF