

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 672 of 2000

Jabalpur, this the 8th day of March, 2004

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

Jawaharlal Patel, S/o. Shri
Mannulal Patel, aged about 44
years, resident of Village
Mankwara, Post : Singod, Tahsil
Panagar, District Jabalpur (MP).

... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India, through
its Secretary, Ministry of
Posts & Telecommunication,
New Delhi.
2. The Director, Postal Services,
Raipur (M.P.).
3. Postmaster General, Raipur
Region, Raipur (M.P.).
4. Sr. Superintendent of Post Offices,
Jabalpur Division,
Jabalpur (M.P.).

... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

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

"(ii) Quash the orders dated 15.6.1993, 20.6.94
and 19.4.2000 Annexure A-1, Annexure A-2 and Annexure
A-3 respectively;

(iii) to reinstate the applicant in service with
full back wages and other consequential benefits."

2. The applicant who was working as Extra Departmental
Branch Post Master was charged by the respondents for mis-
appropriation of Government money. An enquiry was held
against him and vide order dated 15th June, 1993 the
applicant was dismissed from service. His appeal against the
order of the disciplinary authority was not

appellate authority vide order dated 20th June, 1994. The applicant has filed an Original Application challenging the order of the disciplinary authority as well as the appellate authority. The Tribunal vide its order dated 4th January, 2000 in OA No. 486/1994 has given the following direction to the respondents ;

"4.....
The O.A. is disposed of with a direction to the applicant to submit a representation to the Reviewing Authority along with a copy of this order as also the documents relied upon by him including the copies of the disciplinary and appellate authorities within a fortnight from the date of receipt of a copy of this order. In the event the applicant submits such a representation, the Reviewing authority shall dispose of the same within a period of three months from the date its receipt by passing a speaking order and by considering sympathetically the question of quantum of punishment. The decision so taken shall be communicated to the applicant promptly."


The Tribunal while passing this order has also given the finding that the penalty imposed on the applicant is too harsh. In pursuance of the direction the applicant submitted his representation to the reviewing authority. The reviewing authority vide its order dated 19th April, 2000 has converted the punishment from dismissal from service to removal from service.

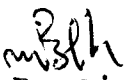
have
3. ~~we~~/heard the learned counsel for the parties, perused the records, and carefully considered the rival contentions made on behalf of the parties.

4. We find that when there was a specific finding by the Tribunal that the penalty imposed on the applicant is too harsh and the respondents were directed to take a sympathetic view to impose any other penalty other than dismissal, the respondents should have considered the case of the applicant sympathetically and should have imposed any other penalty other than dismissal from service, removal from service and compulsory retirement. Instead,


converted the penalty of dismissal from service to removal from service. The consequence of imposing the penalty of removal from service is the same as in the case of dismissal from service. Therefore the respondents have not implemented the direction given by the Tribunal in its true spirit. Hence we quash and set aside the order dated 19th April, 2000 and direct the respondents to impose any other penalty on the applicant other than dismissal from service, removal from service and compulsory retirement from service within a period of three months from the date of receipt of copy of this order.

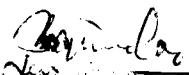
5. Accordingly, the Original Application stands disposed of. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"


S. Paul
SA Dhanu Vikram


S. Paul
11/3/04

gssued
11.3.04