

(1)

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2530/2003

New Delhi this the 16th day of August, 2004.

Hon'ble Sh. Shanker Raju, Member(J)
Hon'ble Sh. S.A. Singh, Member(A)

Sh. J.P. Singh,
S/o Sh. Bhagwant Singh,
R/o C-97 Trans Yamuna Colony,
Agra-6.

Applicant

(through Sh. D.P. Sharma, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Communication and I.T.
Department of Posts,
Dak Bhawan Sansad Marg,
New Delhi-1.
2. The Member(Personnel)
Postal Service Board,
Dak Bhawan-Parliament
Street, New Delhi-1.
3. The Director Postal Services,
O/o the P.M.G.,
Agra Region, Agra.
4. The Sr. Superintendent Post
Offices, Agra Division, Agra.

..... Respondents

(through Sh. S.M. Arif, Advocate)

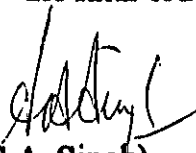
Order (oral)

Hon'ble Shri Shanker Raju, Member(J)

1. Heard the learned counsel.
2. It is trite law as held by the Apex Court in Yogi Nath D. Bagde Vs. State of Maharashtra [1999(7)JT 62] that while disagreeing with the finding of the enquiry officer, the disciplinary authority has to record tentative reasons and that on accord of reasonable opportunity to pass a final order, if the disagreement note shows that the disciplinary

authority takes a final conclusion and proves the charge reasoning and conclusion is not tentative, it is rather a decision already taken which shows predetermination on the part of the disciplinary authority which cannot be countenanced.

3. Whereas the applicant has been let off on Article of Charge-1 and Article-2 has been proved partly, the disciplinary authority while disagreeing with the findings of the enquiry officer on Article of Charge-1 while giving an opportunity to the applicant proved the charge which is not a tentative conclusion. Accordingly, following the ratio of the Apex Court (supra), we are of the considered view that the disagreement arrived at and consequent orders passed are not sustainable in law.
4. O.A. is partly allowed. Impugned orders are set aside. However, respondents are at liberty to take up the proceedings from the stage of disagreement, if so advised. Consequential reliefs would be subject to the final order to be passed by the respondents. No costs.


(S.A. Singh)
Member(A)


(Shanker Raju)
Member(J)