

Asstt. Supdt. of Post Offices and Others

Vs

G. Mohan Nair

Civil Appeal No. 10662 of 1996

(Sujata V. Manohar, G. B. Patanaik JJ)

12.08.1998

ORDER

1. The respondent at the material time was working as Extra-Departmental Delivery Agent, Pallipuram Post Office in Kerala. With effect from 2-11-1988, he was put off duty because a disciplinary action was contemplated against him for not delivering 11 money orders, although he, thereafter, voluntarily credited the amount of Rs. 3991 in the government account.
2. The disciplinary authority in respect of the respondent was the Assistant Superintendent of Post Offices, Appellant 1 herein. However, since Appellant 1 was also one of the material witnesses in the disciplinary proceedings, the Chief Postmaster General appointed the Deputy Superintendent of Post Offices, a superior officer as an ad hoc disciplinary authority to deal with the present case on 24-5-1990. In the meanwhile, on 4-4-1990 a charge-sheet had already been issued by the first appellant to the respondent. The first appellant also appointed on 17-7-1990 an enquiry officer and a presenting officer in respect of the present enquiry.
3. The enquiry was held by the enquiry officer and pursuant to the report of the enquiry officer, the ad hoc disciplinary authority has imposed the punishment of removal from service. This was challenged by the respondent before the Central Administrative Tribunal, Ernakulam Bench. The Tribunal has set aside the proceedings and the order of the disciplinary authority only on the ground that the enquiry officer was appointed by the original disciplinary authority and not by the ad hoc disciplinary authority appointed in respect of the present case.
4. There is no material to indicate that any prejudice was caused to the respondent as a result of the appointment of an enquiry officer and a presenting officer by the original disciplinary authority. It is not even alleged that any such prejudice was caused to the respondent. No allegation of any kind, whether of bias or mala fides, has been made against the enquiry officer or the presenting officer so appointed in the conduct of the enquiry. The actual order against the respondent has been passed by the ad hoc disciplinary authority after taking into account the report of the enquiry officer and the evidence lead in the case. In the absence of any prejudice or any allegations of mala fides, the enquiry should not have been set aside and the action of the disciplinary authority should not have been quashed only on a technical ground that instead of the ad hoc disciplinary authority, the actual disciplinary authority had appointed the enquiry officer in respect of the present case.
5. We, therefore, set aside the impugned order including all directions given by the Tribunal in the said order. The appeal is allowed accordingly. There will, however, be no order as to costs in the circumstances of the case.