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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.910 OF 2014
[Arising out of Special Leave Petition (Civil) No.11083 of 2013]

UNION OF INDIA & ORS. ...APPELLANTS

VERSUS

JAGABANDHU MUKHERJEE ...RESPONDENT

O R D E R

Leave granted.

We have heard Mr. Rakesh Khanna, learned Additional Solicitor General appearing for the appellants and the respondent, who appears in person.

The respondent had filed W.P.C.T. No.600 of 2005, impugning the order passed by the Administrative Tribunal dismissing his Original Application No.112 of 2000. The respondent was working as a Postal Assistant at Santhandih Thermal sub Post Office. He was charge-sheeted on 6th January, 1995 for various acts of misconduct allegedly committed by him. The charge-sheet was issued under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

The allegation against the respondent was that while working as a Postal Assistant between 14" July, 1992 to 26" August, 1992, he was directed to work in the Money Order (Issue) counter. He had issued receipts but had not credited the amounts of the money orders in the Government Treasury. As a result, the remittances were not received by those to whom they were sent. During the same period, he had deposited an extremely negligible amount from the remittances with the Government Treasury.

An enquiry was initiated against the respondent, in which he participated. He cross-examined the witnesses of the Department. It appears that criminal proceedings were also initiated against him. The Enquiry Officer found the petitioner guilty as charged and he was compulsorily retired.

The respondent challenged that order before the Central Administrative Tribunal (for short "CAT") after approaching the Appellate Authority as provided in the applicable rules.

The CAT upheld the findings recorded in the departmental enquiry. It also did not interfere with the order passed by the Disciplinary Authority, which was upheld by the Appellate Authority. The CAT further observed that the respondent had been leniently treated by the Department. Given the gravity of the misconduct, which involved breach of public trust, exemplary punishment may well have been imposed on the respondent.

Not satisfied, the respondent challenged the order of the CAT in

Writ Petition, details of which are noted above, which has been disposed of by the impugned order with the following observations:

"In the present case, we have found that the petitioner was not entrusted with the job of issuing receipts for money order remittances on a regular basis. He was directed to work at the counter as a stop gap arrangement on some days because of the vacancies on those days.

In our opinion therefore, considering the misconduct committed by the petitioner, it would be proper to reduce the punishment from compulsory retirement to one of reduction to a lesser stage in the time scale for a period of five years. The petitioner will not get any increment of pay during the period for such reduction and the reduction will have the effect of postponing the future increments of his pay. The petitioner will be reinstated in service within two weeks from today and all arrears shall be paid to him within three months from today."

Mr. Rakesh Khanna, learned ASG appearing for the appellants, has submitted that it was within the jurisdiction of the Disciplinary Authority to punish the respondent. The High court has very limited power of judicial review, where the disciplinary authority has passed the order after the Government servant has been given adequate opportunity to defend the charges leveled against him in a departmental enquiry. In this case, all the charges have been held to be proved against the respondent by the Enquiry Officer. Thereafter the findings recorded in the Enquiry have been upheld by the Appellate Authority. Therefore, the High Court has without any justification substituted itself for the Disciplinary Authority, and set aside the punishment of compulsory retirement. In fact, the CAT was of the opinion that the Department has dealt leniently with the respondent.

The respondent, who appears in person, submits that the findings recorded in the Enquiry Report as well as by the CAT are without any basis. He maintains that no misconduct was committed by him in the performance of his duties. This apart, he submits that he is a very poor person and he could not afford the services of a lawyer to contest the legal proceedings and, therefore, he is compelled to appear in person.

We have considered the facts and circumstances of this case. Even though we may sympathize with the respondent on account of his financial plight, it would not be possible to turn a blind eye to the findings of guilt recorded by the Disciplinary Authority on very serious charges relating to breach of public trust, in relation to public funds. We are of the opinion that the submissions made by Mr. Rakesh Khanna, learned ASG, merit acceptance.

It is the domain of the Enquiry Officer to determine, on the basis of the material produced in the enquiry and on assessment of the evidence given by the witnesses, whether the charges have been proved against the Government servant. Thereafter, it is for the Disciplinary Authority to examine the findings recorded by the Enquiry Officer. In case, the Disciplinary Authority agrees with the findings recorded by the Enquiry Officer, it can proceed to impose any of the punishments prescribed under the relevant service rules. Thereafter, the Appellate Authority would examine the legality and propriety of the findings recorded by the Enquiry Officer and approved by the Disciplinary Authority. Upon examination of the same, the Appellate Authority has the power to set aside or modify the findings recorded

