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Central Administrative Tribunal /
Principal Bench

O.A.No.1833/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 17th day of March, 2003

Shri Roshan Lal Suman
s/o L. Shri Hukam Singh
employed as Postal Assistant
in Badarpur P.O. New Delhi
under New Delhi South Division,
R/o Ghaziabad
address for service of notices
c/o Sh. Sant Lal
Advocate
C-21(B) New Multan Nagar
Delhi - 110 056. ... Applicant

(By Advocate: Sh. Sant Lal)

Vs.

1. The Union of India, through
the Secretary
Ministry of Communication
Dept. of Posts
Dak Bhawan
New Delhi - 110 001.
2. The Chief Postmaster General
Delhi Circle
Meghdoot Bhawan
New Delhi - 110 001.
3. The Sr. Superintendent of Post Offices
South East Division
New Delhi - 110 003. ... Respondents

(By Advocate: Sh. R.N.Singh, proxy of Sh. R.V.Sinha)

O R D E R

By Shri Shanker Raju, M(J):

Applicant impugns order of minor penalty dated 30.6.2000 withholding the next increments of the applicant for two years without cumulative effect as well as revision order dated 16.4.2002 upholding the punishment. He has sought quashment of these orders with grant of all consequential benefits.

2. While working as Treasurer in Andrewsganj Post Office, on inception by SSPO's, New Delhi South Division on 27.10.1999, an Electricity Bill amounting

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to Rs.11120/- sanctioned by the Divisional Office, charged on 6.2.1999 by applicant. It was found that balance of pending vouchers, as part of cash, was not reduced by applicant. It was also found that a sum of Rs.497/- was also shown as pending vouchers forming part of cash but the details of such vouchers were not available with him.

3. On a preliminary investigation, applicant made a statement on 29.10.1999 admitting his default and sought, through his statement dated 3.11.1999, permission to deposit the cash with further request to find out the vouchers and if the account is tallied, he requested to refund the same back. Accordingly, the aforesaid amount was deposited.

4. A minor penalty chargesheet, under Rule 16, was served upon applicant alleging lack of devotion to duty and failure absolute integrity in so much as from the period 2.2.1999 to 4.2.1999 balance of vouchers as part of cash was not reduced by applicant and he has been alleged to have pocketed Rs.11617/- which was recovered from him and deposited the same in the Post Office on 3.11.1999.

5. Applicant filed representation to the show cause notice on 21.6.2000 stating that on 6.2.1999 Rs. 11,120/- has been reduced in the voucher in Treasury Book and as per this Book, vouchers were corrected which has been certified by the Post Master and these vouchers have been sent to the concerned Branch which were to be forwarded onwards. The aforesaid amount deposited by him was due to pressure and not

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voluntarily. He has demanded copies of the pending vouchers and has requested for return of the amount deposited.

6. The disciplinary authority by an order dated 30.6.2000 after meticulously going into the contentions of applicant, and after the charges are proved, imposed the minor penalty. Applicant has failed to prefer an appeal but preferred the revision petition on 27.11.2000 addressed to Member(Personnel) which has been considered and disposed of and rejected by CPMG on 16.4.2002, giving rise to the present OA.

7. Sh. Sant Lal, learned counsel appearing on behalf of applicant, has assailed the orders on various legal grounds. One of the pleas is that the disciplinary authority has not followed the prescribed procedure under Rule 16(1)(b) of the CCS (CCA) Rules, 1965 (hereinafter called as "Rules") in so much as before imposing a minor penalty, he has not recorded reasons and applied his mind as to holding of an inquiry as per Rules 3 to 23 of Rule 14 of the Rules *ibid*, and he has relied upon the decision of the Calcutta Bench of this Tribunal in OA 59/88, decided on 30.9.1988, Surjit Kumar Halder v. Union of India & Ors., wherein it has been held that it is obligatory upon the disciplinary authority to form an opinion whether an inquiry is necessary or not. According to him, as the charges were complicated and grave, a regular inquiry should have been held before taking a decision.

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8. On merits, it is stated that imputation of the charge against the applicant that the balance of vouchers as part of the cash balance of the post office was not reduced in respect of the voucher of Electricity Bill of Rs.11120/-, is incorrect as the aforesaid amount has already been reduced from the total of the cash, the Cash Book contained the relevant entries and the balance was checked by the Sub-Post Master, and on satisfaction signed the Cash Book. So far as the amount in the voucher of Rs.417/- is concerned, the same was not included in the list of vouchers but these contentions have not been taken into consideration by the disciplinary authority.

9. Placing reliance on Rule 84 of Postal Manual Vol.VI, Part-III, it is stated that charge is vague lacking material particulars. In fact, in S.Os where Assistant is employed in addition to SPM, they are jointly responsible for safe custody of the money and applicant has been punished as no action has been taken against SPM, which violates Articles 14 and 16 of the Constitution of India.

10. In so far as the admission is concerned, it is stated that the same was forced and not voluntarily and unequivocal, it would not amount to an admission. According to him, applicant has been directed to deposit the said amount under threat of Police but he has already sought to give copies of the vouchers to prove his innocence. In absence of the copies of the relevant paid vouchers for the relevant

period being not supplied to him he was not in a position to tally the account, and there is no evidence to establish the same.

11. Shri Sant Lal further contended that he has been deprived of an opportunity to be furnished the copy of the inquiry report, which is preliminary in nature, and also the documents which has greatly prejudiced his case and is violative of principles of natural justice. Applicant's next contention is that the aforesaid admission of applicant has not been put to him in the minor penalty charge sheet issued as such the same cannot be used against him.

12. Sh. Sant Lal further stated that the revision petition has been decided wrongly without jurisdiction by CPMG whereas prior to notification of 27.5.2001 the power and jurisdiction of revision was with Member(Personnel) and as the revision petition was dated 27.11.2000 subsequent disposal by CPMG would not confer any retrospective power or jurisdiction to decide the revision.

13. Lastly, it is contended that the orders passed are non-speaking without application of mind and without dealing with all the contentions of applicant.

14. On the other hand, respondents' counsel Shri R.V.Sinha, appearing through Shri R.N.Singh, vehemently opposed the contentions of applicant and stated that applicant had admitted in writing about the shortage of Rs.11617/- and had sought time to

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bring on record certain vouchers and also to ascertain and check the accounts and stated that he has been trying to find out the same as soon as it is tallied, his amount has been made good to him. Furthermore, it is contended that the aforesaid statement has been without any force and co-ercion and made voluntarily by applicant. Despite passage of time, even till date, applicant has failed to tally the accounts and as a Treasurer it was his responsibility to up keep the accounts and to see that no shortage is done. Accordingly, the charges have been proved and as irregularity has been noticed, SPO is directed a detailed inquiry and as applicant despite lapse of sufficient time has failed to show the vouchers amounting to Rs.11617/- as subsequent averment as to forced admission cannot be countenanced and as he has admitted his guilt, there was even no need to proceed in the inquiry but through detailed orders his guilt has been proved. Treasurer being fully responsible for cash transactions the amount paid by him has been adjusted. Despite sufficient opportunities, applicant could not prove his innocence. As the shortage admitted and amount deposited there is no infirmity in the orders passed.

15. In so far as the revision order is concerned, it is stated that on the crucial date, in view of the notification of the respondents dated 27.5.2001, CPMG has been authorised to deal with the revision petitions and accordingly plea of the applicant is liable to be rejected.

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16. Shri R.N.Singh further stated that as there is no request of applicant for holding an inquiry, provisions of Rule 16(1)(b) of the Rules ibid would not be attracted.

17. I have carefully considered the rival contentions of the parties and perused the material on record produced by respondents.

18. As per the record, applicant on 29.10.1999 has admitted his guilt in so far as the paid vouchers a short of Rs.700/- is concerned. In his statement made voluntarily without any force on 3.11.1999, he has admitted that an amount of Rs.11,617/- has been found short, which he without any force has deposited to make good the shortage and has sought time to find out the vouchers entry in Treasury Book and if the account is tallied requested for refund of this amount. By another statement on 3.11.1999 on his own with free-will, was accordingly permission to deposit the amount which he has greatly deposited.

19. In order to find out whether the aforesaid is an admission of guilt or not, being a Treasurer, applicant was responsible for any shortage and similarly the amount has been tallied by the SPM who is having joint liability under Rule 84 of the Postal Manual ibid yet applicant cannot be absolved of his own responsibility of any shortage in the accounts as applicant despite opportunity has not produced any vouchers, etc. and also failed to tally the account, the aforesaid admission and deposit of amount

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conclusively points out towards his guilt and is to be treated as an admission. If the applicant was in any manner not involved he would have certainly verified and established his innocence by making good or tallying the amount. As he has failed to prove his innocence, despite sufficient time has lapsed, the contention of applicant that these statements would not amount to admission of guilt, cannot be countenanced.

20. Moreover, from the perusal of the statements, it transpires that the same have been made voluntarily where the applicant has accepted his guilt and wrong committed by him, subsequent stand taken by the applicant that the statements have been given under force and coercion is an afterthought and is liable to be rejected.

21. Moreover, the plea that these admissions have not been put to him in the chargesheet is unfounded as the applicant who is already aware of these statements, made by him voluntarily, no prejudice has been caused to him.

22. In so far as the plea of applicant as to non-holding of an inquiry under Rule 16(1)(b) of the Rules is concerned, as per DoPT's OM dated 28.10.1985, if a request has been made on the part of the Government servant to hold an inquiry, thereupon if the disciplinary authority does not apply its mind and also does not record reasons for not holding a detailed inquiry, only then, the rules are violated. As in the present case, no such request has been made

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for holding inquiry in response to minor penalty charge-sheet, Rule 16(1)(b) would not be attracted. Moreover, I am of the considered view that no prejudice has been caused to applicant.

23. In so far as the plea of applicant that revision should have been decided by Member(Personnel) is concerned, on 27.5.2001, through a notification, powers have been delegated to CPMG and as the revision petition dated 27.11.2000 has been decided by the CPMG, he was competent to decide the same, what matter is that the date of decision of revision in the revision and not the date when it has been tendered.

24. I have also perused the order passed by the disciplinary and revisional authorities and I find that the same are reasoned dealing with the contentions of applicant. No material irregularity or illegality has been pointed out to warrant any interference of this Court in the disciplinary proceedings.

25. In so far as the shortage is concerned, it is undisputed, no one else but the applicant is responsible for this. Being a Treasurer having failed to prove otherwise and to bring to the notice of the authorities, the vouchers and also failed to tally the amount his admission and subsequent act of deposition of cash conclusively proves his misconduct and involvement.

26. In the result, for the foregoing reasons, OA is bereft of merit and is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member(J)

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