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Central Administrative Tribunal, Principal Bench

Original Application No. 1166 of 2002

New Delhi, this the 3rd day of May, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman  
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Shri B.L.Arora  
S/o Shri Hans Raj Arora  
working as Postal Assistant in  
Jhilmil Head Post Office Delhi-95  
under Delhi East Postal Division,  
resident of 2420, Bihari Colony,  
Gali No.14, Shahdara, Delhi-32

- Applicant

(By Advocate: Shri Sant Lal)

Versus

1. Union of India  
Through the Secretary  
Ministry of Communications  
Dept. of Posts,  
Dak Bhawan, New Delhi-1
2. The Chief Postmaster General, Delhi Circle  
Meghdoot Bhawan, New Delhi-1
3. The Sr. Supdt. of Post Offices,  
Delhi East Division  
Krishan Nagar, Delhi-51

- Respondents

O R D E R (ORAL)

By Justice Ashok Agarwal, Chairman

Disciplinary proceedings were initiated against the applicant under the following Articles of Charge:

Article-I

"That the said Shri B.L.Arora while functioning as SPM G.N. Bazar PO, Delhi-31 on 19.9.92 accepted the application for transfer (SB 10b) in r/o Shahdara PO, Delhi-32 SB a/c No. 954697 having forged thump impression of expired depositor without any witness whereas in local transfer the SB-10B a/w SB Pass Book is to be received by the Head PO either directly or from the SO where the account stands. The said Shri B.L.Arora countersigned the forged thump impression in the capacity of SPM Gandhi Nagar Bazar PO whereas thump impression was not affixed in his presence. Moreover the depositor of said SB a/c expired in the month of Sept. 1991 and the information about the death of depositor was



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also given to him by one Shri Mohan Chand Upadhyay, the legal heir of depositor. Thus, the said B.L.Arora failed to follow the provisions of Rule 52(2) (b), 61(i) and 51(2) of PO SB Man.Vol.I

#### Article-II

That the said Shri B.L.Arora while functioning as SPM G.N. Bazar, PO, Delhi-31 on 27.2.92 made a withdrawal of Rs.4650/- from G.N.Bazar PO SB A/c 925028 having the thump impression of a person other than depositor on application for withdrawal (SB-7) dt.25.2.92 to Shri Mohan Chand Upadhyay, B-457 Hardevpuri, Delhi-93 irregularly. The said Shri B.L.Arora has accepted the witness of above named person in r/o thump impression affixed on SB-7 dt. 25.2.92 even he know that the depositor expired in the month of Sept.91 as informed to him by Shri Mohan Chand Upadhyay. the SB-7 dt. 25.2.92 was arranged to be prepared by Shri B.L.Arora himself and obtained the witness of Shri Mohan Chand Upadhyay. Thus the said Shri B.L.Arora violated the provisions of Rule 87 of SB Man.Vol. I and by doing so the said Shri B.L.Arora also failed to maintain devotion to duty and acted in a manner unbecoming of a Govt. servant contravening the provisions of Rule 3(i) (ii) & (iii) of CCS (Conduct) Rules,1964."

2. Enquiry Officer by his report of 31.1.96 (Annexure A-5), <sup>has</sup> exonerated the applicant of the aforesaid charges. The disciplinary authority, however, by his order of 28.6.96 (Annexure A-1), has differed with the findings of the enquiry officer and has found the aforesaid charges proved against him. A penalty of reduction of pay by two stages from Rs.1680/- to Rs.1600/- in the time scale of pay of Rs.1400-40-1800-EB-50-2300 for a period of one year with a further direction that he will not earn increments of pay during the period of reduction and on the expiry of the said period the reduction will have the effect of postponing his future increments of pay, was imposed upon him. Aforesaid order of the disciplinary authority was carried by the applicant in appeal and the appellate

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authority, by his order of 20.7.98 (Annexure A-2), has concurred with the findings of the disciplinary authority and has dismissed the appeal. Aforesaid orders of the disciplinary authority and the appellate authority were carried by the applicant in a revision application and the revisional authority, by his order of 28.11.2001 (Annexure A-3), has affirmed the aforesaid findings of the disciplinary authority and the appellate authority and has dismissed his revision application. Aggrieved by the aforesaid orders, applicant has instituted the present OA.

3. We have heard Shri Sant Lal, learned advocate appearing on behalf of the applicant and find that the orders impugned are just and proper and no interference is called for in the present OA.

4. Shri Sant Lal has first contended that Shri Mohan Chand Upadhyay who was the material witness in the case, has not been examined. On account of non-examination of the aforesaid material witness, the entire proceedings are liable to be thrown over Board. In order to buttress the aforesaid argument, Shri Sant Lal has placed reliance on a decision of the Supreme Court in the case of Hardwari Lal vs. State of U.P. & ors., (1999) 8 SCC 582.

5. In our view, the aforesaid contention is wholly devoid of merit. Aforesaid orders of guilt are based on evidence of other witnesses as also the documents placed on record. Non-examination of the aforesaid witness would not justify ignoring the aforesaid material which

points to the guilt of the applicant in respect of the aforesaid charges. The aforesaid decision in the case of Hardwari Lal, does not lay down a proposition of law as to the effect of failure to examine the material witnesses. It was on the facts and circumstances arising in that particular case that non-examination of material witnesses was found to be fatal in disciplinary proceedings which was dealt with by the Supreme Court. In the present case, we find that the order of disciplinary authority is fully borne out by the witnesses which have been examined in the case. No useful assistance can, therefore, be had by reference to the aforesaid decision of the Supreme Court.

6. Shri Sant Lal has next sought to contend that the aforesaid findings which have found favour with the disciplinary authority are not justified on the evidence adduced in the disciplinary proceedings. In our judgement, the aforesaid contention is also without merit. Evidence in the enquiry, both oral as well as documentary, has found favour with the disciplinary authority. It is not open to us to sit in appeal and arrive at a finding contrary to the one which has found favour with the disciplinary authority, on re-appraisal of the evidence. Aforesaid contention, in the circumstances, is also rejected.

7. Shri Sant Lal has finally submitted that the order passed in review application has been issued by an authority not competent to issue the same. According to him, at the time when applicant had submitted his revision application dated 22.11.98, Member(Personnel), Postal

*V.J.*

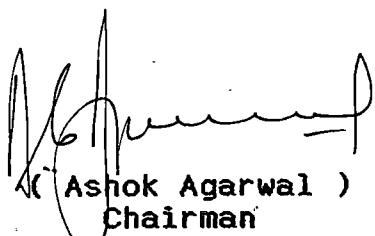
Services Board was the revisional authority. The order in revision, however, has been issued by the Chief Postmaster General who, according to Shri Sant Lal, was not an authority competent to dispose of the aforesaid revision petition of the applicant. In our view, aforesaid contention is also devoid of merit. The relevant rules have been amended w.e.f. 29.7.2001 whereby Rule 29 of the CCS (CCA) Rules has authorised the Chief Postmaster General to dispose of the revision applications. The Chief Postmaster General, in the circumstances, was fully justified in passing his order on a later date namely on 28.11.2001. Aforesaid contention, in the circumstances, is also rejected.

8. Having regard to the aforesated reasons, we find that the present OA is wholly devoid of merit which is dismissed in limine.

  
( S.A.T. Rizvi )

Member (A)

/dkm/

  
( Ashok Agarwal )  
Chairman