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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1014/2002

New Delhi, this the 30th day of September, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)  
Hon'ble Shri S.K. Naik, Member(A)

Krishna Murari  
Vill. and PO Kakhawatu  
Auraiya (Etawah) .. Applicant

(Shri D.P. Sharma, Advocate)

versus

Union of India, through

1. Secretary  
Department of Posts  
Ministry of Communication  
New Delhi
2. Director Postal Services  
o/o PMG, Agra
3. Superintendent  
Etawah Division, Etawah .. Respondents

(Shri D.S.Mehandru, Advocate)

ORDER

Shri S.K. Naik

The applicant was working as Extra Departmental Branch Postmaster, Kakhawatu (Auraiya). He was charge sheeted under Rule 8 of EDAs(C&S) Rules, 1964 vide Memo dated 29.9.97 and the allegations made against him were:

Allegation No.1: The above Shri Krishna Murari while working as Branch Post Master Kakhawatu (Put off duty) made entry of deposit of Rs.3000 on 12.7.94 and Rs.500 on 9.9.95 in the Pass Book of Saving Bank A/c No.428312 in his own handwriting and impressed the book with date stamp and he did not account for the amount in Govt. accounts violating the provisions of Rule 131 of Branch Post Office Rules (VI Ed.).

Allegation No.2: The above Shri Krishna Murari, Branch Post Master Kakhawatu (Put off duty) working on this post accepted money from Shri Girvar, Depositor of Saving Bank account in different dates Rs.28,455/- but he did not account for this amount in Govt. accounts and misappropriated the money. In this way Shri Krishna Murari, Branch Post Master has violated the provisions of Rule 135(four) of Branch Post Office Rules (VI Edition). Apart from it he made payment of Rs.22000 on 15.6.94, 1.9.94, 24.8.95 and 30.10.95 and made these entries in the pass book but he did not make these entries in Govt. records like Saving Bank

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journal Branch Post Office Account etc. and thus violated the provision of Rule 135(Three) of Branch Post office Rules (VI Edition).

Further in this account he made payment to the depositor of Rs.500 each on 7.6.94, 8.6.94, 9.6.94 and 13.6.94 and shown these amount in the Govt. records but he did not make entry in the passbook nor impressed the pass book with date stamp. Thus he has violated the provision of Rule 131 of Branch Post Office Rules(VI Edition).

Allegation No.3: The above Shri Krishna Murari Post Master, Kakhabatu (Put off duty) accepted the pass book of Account No.417914 balance Rs.40018.85 from the depositor Shri Kailash Narain Khushwaha but he failed to issue proper receipt of pass book No.B-28. He issued receipt SB-103. Thus he violated the provision of Rule 144 of Branch Post Office Rules (VI Edition).

2. The competent authority ordered a departmental enquiry against him, The enquiry officer concluded in his report dated 13.10.98 that out of allegation No.1, misappropriation of Rs.3500 and out of allegation No.2, misappropriation of Rs.8955 were proved against the applicant, while in respect of allegation No.3, he has held that the applicant issued receipt on half portion of SB-103 instead of SB-28. He has, therefore, held that all the allegations are fully proved.

3. Based on the report of the enquiry officer and after following due procedure of affording an opportunity to the applicant to make representation against the enquiry officer's findings, the disciplinary authority, agreeing with the findings of the enquiry officer, imposed a penalty of dismissal from service on the applicant, vide his order dated 19.2.1999. Appeal against the order passed by the disciplinary authority was also rejected by order dated 7.3.2001. Aggrieved by these orders that the applicant has filed the present OA.

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4. The counsel for the applicant has assailed the impugned orders of disciplinary as well appellate authorities primarily on the grounds that the applicant has been deprived of submitting his written brief by the enquiry officer resulting in denial of reasonable opportunity to defend his case. He has also contended that the required documents were not allowed to be examined by him and that it is a case of no evidence.

5. On the other hand, the counsel for the respondents has contended that the applicant, despite advice dated 25.9.98 by the enquiry officer to file his written brief within a week, had failed to do so; however his defence statement was duly considered by the competent authority prior to the passing of the impugned order dated 9.2.99. He has also contended that all the documents required by the applicant were supplied to him for his defence. The counsel has denied that it is a case of no evidence as the allegations framed have been proved against the applicant on the basis of documentary and oral evidence produced during the inquiry.

6. We have heard the rival contentions of the parties and perused the material available on record. We find that the enquiry had been conducted after following due procedure prescribed and the same does not suffer from any infirmity. Since the enquiry officer has concluded that the charges have been proved against the applicant based on the evidence available on record, it cannot be termed as a case

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of no evidence. Though the applicant had failed to submit his written brief despite advise from the enquiry officer, yet his defence statement was duly considered by the disciplinary authority and thus he was afforded reasonable opportunity. We further note that, as has been rightly pointed by the learned counsel for the respondents, the applicant has not been able to establish that any prejudice is caused to him because of the penalty imposed. Therefore the averments made by the counsel for the applicant to the contrary fall to the ground and are not sustainable.

7. The reliance placed by the applicant's counsel on the decision of Supreme Court in the case of SBI & Ors. Vs. Arvind K. Shukla JT 2001(4) SC 415 would not render any assistance to the applicant as the same is distinguishable inasmuch as it is not the case of the applicant that only one charge has been proved, nor that the disciplinary authority has disagreed with the findings of the enquiry officer. Be that as it may, even if one charge is proved, it is sufficient for the competent disciplinary authority to take action in accordance with law and rules on the subject.

8. In the result, in view of what has been discussed above, we find no merit in the application and the same is accordingly dismissed. No costs.

  
(S.K. Naik)  
Member(A)

  
(Smt. Lakshmi Swaminathan)  
Vice Chairman(J)

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