

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

Dated Tuesday the 2nd day of June Two Thousand And Twenty

PRESENT:

THE HON'BLE MR. P. MADHAVAN, MEMBER(J)
THE HON'BLE MR. T. JACOB, MEMBER(A)

O.A.310/1566/2014

Shri M. Subramani,
Retired Supervisor, SBCO,
Erode HO, Erode- 638 001,
@No.76, Nihung Kotagiri,
Kotagiri-643 217.

.....Applicant

(By Advocate: M/s. S. Arun)

Vs

1. Union of India Rep. By
Director of Postal Services,
Western Region,
Tamil Nadu Circle,
Coimbatore-641 002;
2. The Senior Superintendent of Post Offices,
Erode Division,
Erode-638 001.

.....Respondents.

(By Advocate: Mr. C. Kulanthaivel)

ORDER

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

This is an OA filed seeing following reliefs:-

"to set aside the Memo No. Memo No. F1/Misc/SBCO/Dlgs. Dated 29.04.2013 and Memo No.: STB/15-218/2013 dated 11.07.2014 passed by the 2nd and 1st Respondents respectively besides directing 2nd Respondent to refund applicant a sum of Rs.40,000/- recovered from his last month pay and pass such other orders as are necessary to meet the ends of justice."

2. In short the applicant's case is as follows-

Applicant had worked as Supervisor in SBCO Branch RS.Puram H.O from 1-6-06 to 25-4-08. While he was working at SBCO, Erode in 2013, he was served with a charge memo under Rule -16 of CCS(CCA) Rules, 1965 on 16-4-13(Annexure A4) alleging that while working as Supervisor at R.S Puram Branch, he failed to ensure receipt of daily returns of RD vouchers, daily posting and updation of data entry of RD transactions of SO's and especially of SO Tadagam, failed to keep registers to watch receipt of closed pass-books of RD accounts etc.,. On receipt of the charge memo, he filed a representation to Respondent No.2 on 26-4-2013 for perusal of documents which are crucial to prepare a detailed reply (Annexure-A5). The respondent No.2 without giving the same, had

passed the impugned order of recovery of Rs.40000/- and Censuring the applicant (Annexure -A6). The appeal filed by the applicant was rejected by Respondent No.1 on 13-6-2013. The Appeal and order is produced as Annexures A7 & A8. According to the applicant, the action of the respondents is unjust. The applicant had filed reports regarding the non-receipt of RD returns. He had sought for the perusal of monthly progress reports and RD voucher lists for the period but, Respondent 2 had not complied with it. The Supervisor is not expected to check all vouchers. He need to do only test checks. There had occurred a long delay in initiating disciplinary proceedings. The charge memo was issued after a lapse of 6 years and at the fag end of his service. He had retired on 30-04-2013. This is illegal. So, he seeks to quash the orders of the DA and Appellate Authority.

3. The respondents filed a detailed statement. The fraudulent withdrawal and payment came out only in January 2012. Several discrepancies in closed accounts came out. It came out during investigation that more than one withdrawal was allowed in many RD accounts during 2007-2009 without the knowledge of depositors. Accounts were closed for full maturity value without deducting part withdrawals. Non crediting was also found in 76 RD

accounts with a total loss of Rs.25,35,265/- to the Government. This was done by one, Smt. Santha, MPKBY agent with the assistance of the GDS packer and Smt. Saraswathy in Todagam S.O. The applicant failed to do updating of data-entry, preservation of records and checking of vouchers/closed vouchers of RD accounts and paved the way for the mis-appropriation. After a thorough verification, an assessment of loss due to non-credits/fraudulent withdrawals in RD accounts during the said period was taken and a show-cause notice was issued to the applicant for recovery of an amount of Rs.44,969/-(as his part in the loss caused) on 14-03-2013. He sought time for filing reply. Time was granted to him. Then he demanded various documents by representation dt.25-3-2013. The SSPO permitted the applicant to peruse the available 5 documents which are relevant. Then he again filed a representation on 10-4-2013 for perusal of balance documents for giving reply. The applicant was permitted to peruse MDW. The SO long book and SO ledger books were not relevant to the enquiry and it was not permitted as requested. The RD voucher list of HQ, SB Branch R.S Puram was not received from SBCO Branch RS Puram and hence could not be given. There upon, it was felt that the applicant is trying to delay the inquiry and issuing of

the charge-memo and hence the charge sheet under Rule 16 of CCS(CCA) Rules was issued to the applicant dt.12-4-13. Again the applicant sought for perusal of documents for giving his statement on 26-04-2013. The SSPO, Coimbatore had given available 3 documents sought in the representation. It was only thereafter, the case was finalised to recover Rs.40000/- from pay of the applicant as loss caused to the government due to the negligence and the applicant was issued with "Censure" for the failure to maintain devotion to duty. So, the respondents would contend that there is no merit in the OA.

4. The counsel for the applicant mainly contended that the disciplinary action was initiated after a gap of 6 years and the applicant is put to prejudice. The applicant is not provided with all records he sought for and hence he was prejudiced. The action of the respondents in recovering Rs.40000/- and passing a Censure on the applicant is arbitrary.

5. The counsel for the respondent would contend that the proceedings initiated was minor penalty proceedings and hence a very detailed inquiry as provided under Rule 14 is not contemplated. The respondents had provided all relevant records available and relied upon by the respondents. The applicant has no

case that the non-furnishing of a particular document has prejudiced his case. The respondents rely upon the decision of the Apex court in *State of Tamil Nadu v Thiru. KV Perumal*(reported in CDJ 1996 SC 190) in support of the above argument.

6. We had heard both sides and anxiously perused the various annexures produced before this Tribunal. On a reading of the proceedings R13 dt.29-4-13, it can be seen that the respondents had scrupulously followed the procedure in inquiry under Rule 16 of CCS(CCA) Rules and had given all opportunities to the applicant to present his case. The applicant had sought for a lot of documents which are not relied upon by the respondents and hence it cannot be found that non-supply of some of the documents alleged in the OA had prejudiced the applicant in his defence. The respondent had conducted an investigation into the alleged irregularities and found that the negligence of the applicant had facilitated very much in fraudulently taking money from RD accounts and they had fixed liability on various individuals and the applicant was ordered to pay an amount of Rs.44,969/ as per Annexure R3 notice. The applicant did not pay the same. The alleged irregularities came out only in the year 2012 and it is only because that the charge memo was issued after 6 years. The respondents cannot be blamed for this

delay. Since the applicant was on the verge of retirement, the DA had imposed on "Censure" and ordered for the recovery of Rs.40000/- in the order dt.29-4-2013. The appellate authority has also considered all aspects and confirmed the order of the disciplinary authority, R2.

7. We do not find any merit in the arguments raised in this case. The OA lacks merits. Hence, OA will stand dismissed.

No costs.

(T. JACOB)
MEMBER(A)

(P. MADHAVAN)
MEMBER(J)

02.06.2020