

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 040/00370/2014

Date of Order: This the 25<sup>th</sup> Day of October 2017.

HON'BLE MR.S.K.PATTNAIK, JUDICIAL MEMBER

Shri Bhaben Ch. Sarma,  
GDS Branch Post Master  
(Now removed)  
Hahara B.O. under Sonapur B.O.  
District-Kamrup, Assam

Applicant

By Advocate Mr.A.Bhattacharjee

-Versus-

1. Union of India, represented  
by the Chief Post Master General,  
Assam Circle, Meghdoot Bhawan,  
Guwahati-781001
2. The Director Postal Services (HQ)  
O/O the Chief Post Master General,  
Assam Circle, Guwahati-781001.
3. The Senior Superintendent of Post Offices,  
Guwahati Division,  
Meghdoot Bhawan, Guwahati-781001
4. The Inquiry Authority of Assistant Superintendent  
(H.Q) RNS Guwahati Division, Guwahati-781001.
5. The Sub-Divisional Inspector of Post Offices,  
Guwahati East, Ulubari, Guwahati-781007

By Advocate Mr.A.Chakraborty, Addl.C.G.S.C.

**ORDER (ORAL)**

**Per Mr.S.K.Pattnaik, Member(J):-**

Heard Mr.A.Bhattacharjee, learned counsel for the applicant Mr.A.Chakraborty, learned Addl.C.G.S.C. for the Respondents.

2. The Applicant who was working as GDS Branch Postmaster had filed O.A.No.370 of 2014 challenging the penalty of dismissal from service. The matter was heard by CAT, Guwahati Bench, by both the Members. Hon'ble Member Judicial, Smti Manjula Das, directed the Respondents i.e Disciplinary Authority to impose a lesser punishment commensurate to the offence in accordance with law and set aside the removal order dated 04.10.2013. Hon'ble Administrative Member, Mohd Haleem Khan did not agree with the views of Hon'ble Member Judicial and according to him the Applicant deserves no other punishment than dismissal from service and therefore, opined that the O.A. is liable to be dismissed.

3. In view of difference of opinion between both the Members, the matter was referred to me to adjudicate as the 3<sup>rd</sup> Member. Learned counsel for the Applicant agreeing with the views of Hon'ble

Judicial Member submitted that the GDS working as Branch Postmaster was not well conversant with Rules and Guidelines of Postal Department and it was not a case of misappropriation of money, rather a case of not maintaining proper accounts in the Post Office.

4. Learned counsel for the official Respondents submitted that the charge is serious as the Applicant has misappropriated a sum of Rs. 91,7626.60/- from different Accounts holders of Savings Bank and Recurring deposit on different dates during the year 2001 to 2007 and deposited only 50,000/- on 10.8.2012 (Annexure -3), and since the misappropriation has been proved, appropriate sentence is dismissal.

5. Learned counsel for the Applicant submitted that the Applicant was not given due opportunity during the Disciplinary Proceedings and even though the misconduct took place during 2001 to 2007, only in the year 2011, the Disciplinary proceedings started and concluded in 2013.

6. The learned counsel for the official Respondents submitted that for the misappropriation of huge public money, FIR was lodged on 5.2.2007 and criminal case is still pending, further as the employee was absconding, there was delay in conclusion of Disciplinary Proceedings.

The learned counsel for the Applicant submitted that the applicant has received the Charge Memo in 2011 itself, and even though he was present all through the proceedings started only in 2013.

7. Delving into the merit of reference to a 3<sup>rd</sup> Member, it may be clarified at the outset that both the Hon'ble Members were unanimous about the misconduct of the delinquent employee and only differed with the quantum of punishment. It may be reiterated that the delinquent employee was involved in misappropriation of public money to a tune of Rs.917625/- and had deposited Rs.50,000/- on 10.8.2012 (Annexure -3). Even the Enquiry Report suggested that during enquiry the employee had admitted his guilt. The Applicant was serving as a Branch Postmaster and massive ethical values expected from him. Judicial intervention in the quantum of punishment is very very limited. Only when the punishment is shockingly disproportionate, the Tribunal can interfere with the same. Such a view has been taken in the case of **State Bank of India & others ,Vs. Ramesh Dinkar Punde (2006) 7 SCC 212**, while coming to such a decision the Hon'ble Apex Court have placed reliance on the decision reported in **AIR 1989 Supreme Court 1185 in the case of Union of India, Vs.Parma Nanda** wherein their

Lordships have given a guideline when the Tribunal can interfere with the punishment imposed by the disciplinary authority. Since it is a case of misappropriation of public money and confidence of depositors of are at stake due to misconduct of a Branch Postmaster, no lenient view can be shown. In the case of **United India Insurance Co.Ltd. & 2 ors. – Vs.Tarani Kanta Kakati**, Writ Appeal No.62 of 2014 a Division Bench of Hon'ble Gauhati High Court have emphatically observed as under:

*“Where an officer deals with public money or is engaged in financial transactions, it is imperative that he has to demonstrate the highest degree of integrity and trustworthiness. In this regard, breach of discipline detrimental to the institution amounts to misconduct which has to be dealt with iron hands.”*

8. In view of such authoritative pronouncement, I have no hesitation to come to the conclusion that the punishment imposed by Disciplinary Authority was just and proper and no interference is called for. To conclude, I agree with the views of Hon'ble Member (A), Mohd Haleem Khan that the applicant deserves no other punishment than dismissal from service and therefore, the O.A. is dismissed.

No order as to costs.

(S.K.PATTNAIK)  
MEMBER(J)

Im