

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1524/1996

New Delhi, this 14th day of February, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman  
Hon'ble Smt. Shanta Shastri, Member(A)

4

Mangat Ram Sharma  
C-16/87, Sector 7  
Rohini, Delhi-85

... Applicant

(By Shri Sant Lal, Advocate)

versus

Union of India, through

1. Secretary  
Deptt. of Posts, M/Communications  
Dak Bhavan, New Delhi

2. Director Postal Services (P)  
Meghdoot Bhavan, New Delhi

3. Sr. Supdt. of Post Offices  
Meghdoot Bhavan, New Delhi ... Respondents

(By Shri K.R.Sachdeva, Advocate)

ORDER(oral)

Hon'ble Smt. Shanta Shastri

The applicant, who is a Postal Assistant, has impugned the order dated 10.3.95 of the disciplinary authority (DA, for short) and order dated 31.5.96 of the appellate authority (AA, for short), whereby the applicant has been punished with reduction in pay in the time scale to Rs.975 for a period of three years with effect from 1.1.95 and his appeal against the punishment order has been rejected, respectively.

2. The brief facts of the case are that the applicant was working as Postal Assistant in Model Basti Post Office, New Delhi. He was proceeded against under Rule 16 of the CCS(CCA) Rules, 1965 for misconduct and misbehaviour as he tried to encash two Indira Vikas Patras (IVPs for short), which did not belong to him, by giving a false name. The IVPs belonged to one Smt.

Anjali. One Shri Jagdish Singh, Packer, Parliament House Post Office found two IVPs dated 16.11.88 of denomination Rs.2500/5000 issued by Parliament Street H.O. reported to be lying on the stairs of that office. The loss of these IVPs had already been reported by Smt. Anjali on 1.12.93 and the same had been noted in the relevant records. Shri Jagdish Singh passed on these IVPs to one Shri Vijay Kumar Sharma, Postal Assistant in Parliament House P.O. for further disposal. He in turn gave them to the applicant to encash the same. The applicant visited the Parliament Street H.O. and presented the IVPs at the appropriate counter for encashment. Due to the alertness of the counter clerk the IVPs could not be encashed. The matter was enquired into and the applicant was meted out the punishment as mentioned in the impugned order dated 10.3.95. 5

3. It is the case of the applicant that no regular enquiry was conducted in this case though the penalty imposed amounted to a major penalty. He contends that the DA did not provide any opportunity of defence and the matter was enquired into by one Shri B.S.Dahiya, Asstt. Supdt. of Post Offices, New Delhi, that statements of certain officials were recorded behind the back of the applicant and based on that report the DA imposed the punishment. Applicant had requested for the enquiry report and statement of Shri Khem Raj, postal assistant alongwith some other documents. He was permitted to inspect the available documents. According to the applicant, the DA's order is not a speaking one and is a non-reasoned order. He also submits that there are two other persons involved in this incident. However action was taken against the three separately.

Since the incident was same, common proceedings should have been conducted against all the three persons together. Also permission to inspect all the documents involved was denied.

4. Learned counsel for the applicant vehemently argued that the penalty imposed is a major penalty and therefore formal enquiry should have been conducted in the matter. He is relying on the judgement of the Orissa High Court in the case of K.K.Niranjani Vs. State of Orissa 1993 Vol.3 SLJ 113. It has been held in this case that the judicial authority should apply its mind whether the enquiry is necessary at all. Another case cited is that of S.Govinda Raju Vs. Supdt. of Post Offices 1989 Vol.10 ATC 86. Here again it has been held that it should be decided with proper application of mind whether to hold enquiry or not. Learned counsel is also drawing support from the case of Jaswant Singh Vs. UOI in OA 339/96 decided on 3.2.2000 by this Tribunal. In this case applicant's pay was reduced by 10 stages in the time scale of pay for a period of two years and further it was directed that he will not earn increments of pay during the period of reduction and that on expiry of this period the reduction will not have the effect of postponing his further increments of pay. The Tribunal held that this amounted to a major penalty. Learned counsel for the applicant submits that the applicant's case in the present OA is similar to that of Jaswant Singh (supra) and therefore since the punishment amounts to major penalty, formal enquiry should <sup>have</sup> been held in this case.

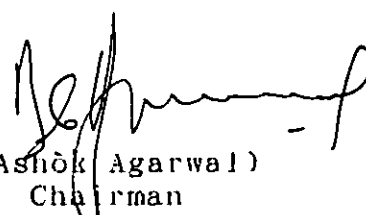
5. Learned counsel for the respondents submits that the penalty imposed on the applicant is strictly according to Rule 11 of CCS(CCA), 1965. The penalty imposed is a penalty described in rule 11(iii)(a) and therefore it cannot be said to be a major penalty. He further contends that separate enquiries were made against all the three persons involved in this incident and there is nothing discriminatory about it. The penalty awarded was neither dismissal from service and nor was dismissal seeming to be commensurate with the lapses on the part of the applicant and others, therefore there was no need of common proceedings. Holding of a regular enquiry for imposing minor penalty is not mandatory but only discretionary. Learned counsel therefore contends that the DA's order has rightly been passed. It is left to the discretion of the DA whether to conduct a regular enquiry or not under sub-rule 16(1). The learned counsel adds that Rule 16 of CCS(CCA) Rules does not make it incumbent on the part of the DA to give the charged person a copy of the enquiry report. In regard to the applicant's request for statement of Shri Khemraj the learned counsel states that no statement was obtained from Shri Khemraj so there is no question of inspection of the statement of Shri Khemraj. According to the respondents the applicant tendered the IVPs not belonging to him for encashment fraudulently. As per report of the Deputy Post Manager submitted on 13.12.93 the applicant gave his name as Ram Lal and his office as Karol Bagh P.O. and thus he tried to hide his true identity while trying to encash the certificates.

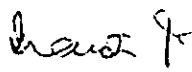
6. After hearing the arguments and submissions of both the learned counsel for the applicant as well as the respondents, we are of the view that the penalty imposed by the DA in this case is a minor penalty as prescribed in Rule 11(3)(a) of the CCS(CCA) Rules, 1965. Also we find that amongst the three persons involved in this incident, it is the applicant who was caught presenting the IVPs for encashment. While other two were dealt with separately, we do not find anything wrong in conducting separate proceedings against all the three persons. Learned counsel for the applicant has relied upon the judgement in the case of Jaswant Singh (supra) to demonstrate that the penalty imposed on the applicant is a major penalty. We note that in the aforesaid case it was further directed in the penalty order that applicant would not earn increments of pay during the period of reduction and that on expiry of this period the reduction will not have the effect of postponing his further increments of pay. In the present case the punishment is different and is confined to only reduction in the time scale of pay for a period of three years without cumulative effect. Also, we find that the applicant had not represented for any regular enquiry. Thus, the case of the applicant herein is distinguishable from that of Jaswant Singh (supra).

7. Learned counsel for the applicant has also challenged the AA's order on the ground that it is not a speaking or reasoned order. We, however, note that the AA has clearly mentioned in the order that he has gone through the whole case in detail, i.e. charge-sheet issued, action taken by the DA as well as ground of appeal put forth by the applicant. He has also given

reference to the representation submitted by the applicant. We, therefore, cannot term the order of AA as a non-speaking or an order without reasons. It has not been denied that the applicant presented the IVPs belonging to someone else for encashment. 9

8. In the facts and circumstances of the case, we find no merit in this OA. The application is accordingly dismissed. We do not order any costs.

  
(Ashok Agarwal)  
Chairman

  
(Smt. Shanta Shastri)  
Member(A)

/gtv/