

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

DA No.1596/2000

Date of decision: 16-04-2002

Shri Hariom Sharma

Applicant

(By Advocate: Shri D.P. Sharma),

versus

Union of India & Others

Respondents

(By Advocate: Shri N.S. Mehta)

CORAM:

The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)

The Hon'ble Shri M.P. Singh, Member(A)

1. To be referred to the reporter or not? Yes
2. Whether it needs to be circulated to other ~~No~~ Benches of the Tribunal?


(M.P. Singh)
Member(A)

(27)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1596/2000

New Delhi, this 16th day of April, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)
Hon'ble Shri M.P. Singh, Member(A)

Hariom Sharma
Vill & PO Raya Distt.
Mathura

.. Applicant

(By Shri D.P. Sharma, Advocate)

versus

Union of India, through

1. Secretary
Department of Posts
Ministry of Communication, New Delhi
2. Director Postal Services
Office of Postmaster General
Agra Region, Agra
3. Sr. Supdt. Post Offices
Mathura Division, Mathura

.. Respondents

(By Shri N.S. Mehta, Advocate)

ORDER

Shri M.P. Singh, Member(A)

The only short point that needs determination in the present OA is whether the respondents are justified in effecting recovery of Rs.54000/- from the salary of the applicant vide the impugned order dated 19.7.2000. Heard the learned counsel for the parties at length and perused the records.

2. Briefly stated, the applicant, working as Postal Assistant (PA, for short) in Mathura Head Post Office, was placed under suspension vide order dated 30.3.1995 but the suspension was revoked vide order dated 29.6.1995 and he was reinstated as PA, Mathura Refinery Post Office. A copy of this letter was also endorsed to the SPM, Mathura Refinery directing ~~to~~ him not to engage the applicant on sensitive post as SB (Savings Bank), RD (Recurring Deposit), NSC (National Savings Certificate)

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etc. Pursuant to this, applicant was not engaged in the branches of direct dealing of cash with the public by the Sub-Postmaster but was engaged to work for dealing with registered letters, parcels and sorting of letters inward and outward work etc. as Postal Assistant-II. On 22.3.2000, a charge-memo to the following effect was issued to the applicant:

"Shri Hari Om Sharma while functioning as Sr. PA Mathura Refinery SO during the period 16.9.95 to 5.10.96 did not verify the cash and stamps balance held by SPM daily being joint custodian on the different dates noted below. He also did not verify the balance due to HO with details of cash stamp balance due on Branch Offices shown by Shri Man Singh SPM in SO Account and on SO daily A/c sent to HO daily. the said Shri Hari Om Sharma also failed to put his initial in the SO Account in prescribed column and on the SO daily A/c at the proper place. Shri Hari Om Sharma further failed to challenge the amount of cash retained in excess of prescribed authorised maximum i.e. Rs.10000 without showing adequate correct liabilities and the correct BO balances shown in SO A/c as per BO Summary which are mentioned in Table I and II respectively.

"As joint custodian of cash and valuables of Mathura Refinery SO, beside failure to exercise above checks aforesaid Shri Hari Om Sharma did not keep the second key of locks of iron safe. His such negligence and slackness facilitated loss of govt. money worth Rs.2,71,904.90 by Shri Man Singh SPM Mathura Refinery."

3. Thereafter, a minor penalty of recovery of Rs.54,000/- from the pay of the applicant was imposed vide order dated 19.7.2000 for non-discharging the duty of verifying the cash and stamps balance being a joint custodian. Applicant submitted his defence which was rejected. He appealed against the punishment order which also was rejected by order dated 21.10.2000. He is thus before us seeking to quash and set aside the impugned orders dated 19.7.2000 and 21.10.2000 and the amount already recovered from his pay be directed to be refunded to him.

4. Respondents in their reply have stated that the applicant, being the senior most PA was required to perform the duties of joint custodian and he was jointly responsible with the SPM for the cash and valuable as prescribed in Rule 84 of Postal manual Vol.VI, Part III. He was also required to count the cash and postage stamps etc. daily when the accounts are closed as prescribed under Rule 84(B) of Postal Manual. Due to negligence of duty by the applicant, Shri Man Singh, SPM Mathura Refinery retained excess cash beyond the maximum authorised balance without liabilities or with insufficient liabilities. Shri Man Singh also showed incorrect balances of branch post office in his daily account. The negligence of applicant facilitated the SPM in misappropriation of government money worth Rs.271904.90 which was noticed on 5.10.96 at the time of annual inspection by the SDI(E), Mathura. The applicant is also responsible for this heavy loss of government money. Thereafter, the applicant was proceeded against under Rule 16 of CCS(CCA) Rules, 1965 vide memo dated 22.3.2000 for his negligence and lapse which resulted in loss of government money and for that lapse he was awarded the aforesaid punishment of recovery of Rs.54000. His appeal dated 28.7.2000 was decided by the appellate authority vide his order dated 21.10.2000. In view of this position, the applicant is not entitled to any relief and the OA be dismissed.

5. It is the case of the applicant that as per Annexure A/2, he was debarred to work on sensitive post of cash handling like SB, RD and NSC etc. The work of joint custodian of cash and stamps for overnight is a most

sensitive one and, therefore, he was not entrusted this work either by SPM or by the Respondent No.3 (R-3). Thus he did not work as joint custodian; he neither signed the daily accounts which are sent to the Accounts Office daily nor on the official record which is maintained in every sub-post office. Therefore, he was neither entrusted the work of joint custodian nor it was performed by him. As per note below Rule 84 of Postal Manual, R-3 was required to select an Assistant and name him in the memo of distribution of work. There were 2 Assistants and one SPM. R-3 did not nominate the applicant for performance of the above work.

6. Applicant further submits that the occurrence of the incidence related to 1995-1996, while the charge-memo was issued on 22.3.2000 which suffers from delay and laches and thus not sustainable as has been held by the apex court in the case of State of Andhra Padesh Vs. N.Radhakishan JT 1998(3) SC 123 and FCI Vs. V.P. Bhatia JT 1998(8) SC 16. That apart, when the actual accused Shri Man Singh, SPM had categorically confessed his guilt in writing that he had spent the government money in the treatment of his wife and that he would make good of the same, imposition of penalty on the applicant, particularly when he was in no way involved in public money transaction or for the loss suffered by the department, is unlawful and illegal. Also, when the applicant was not entrusted the work as joint custodian, he cannot be said to be responsible to verify the cash and stamps of his superior officer.

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7. On the other hand, it is the case of respondents that SPM, Mathura Refinery had engaged the applicant to perform duties of PA-II, as prescribed in a statement of the distribution of work issued by Respondent No.3 on 25.6.1986 (Annexure R-4). According to Note endorsed under Annexure R-4, being the senior most PA the applicant was also required to perform the duties of joint custodian for overnight safe custody of government cash and valuable and he was also responsible for daily counting of cash and postage stamps etc. at the close of accounts. This work was not of direct cash dealing but was only for joint and safe custody of cash, stamps and valuable of the office. Moreover, the applicant was debarred only from the work of SB, RD and NSC branches involving direct cash handling from public and he was required to follow the duties entrusted to him as per Annexure R-4. With regard to applicant's reference to Rule 84 of Postal Manual, respondents would contend that it has been clearly prescribed in the memo of distribution of work (Annexure R-4) by indicating that senior most PA, applicant herein, will be jointly responsible. As regards the delay in issue of charge-sheet, respondents state that charge-sheet was issued when the departmental enquiries were completed. The main culprit Shri Man Singh, though confessed his guilt and assured that he would make good the amount of loss, it has not been made good by him till date. The said huge loss sustained by the department is due to negligence of duties by the applicant. Respondents reiterate their stand that the applicant had not performed the duties of joint custodian deliberately.

8. A perusal of Annexure R-4 dated 25.6.1986, no doubt, shows the distribution of work amongst SPM, PA I and PA II, with a Note below therein to the effect that "1 SPM and Sr. P/A will be jointly responsible for O/N safe custody of Govt. cash and valuables one key of the cash box/Iron safe will be kept by Sr. P/A and the other by SPM". However, while revoking the suspension of the applicant vide order dated 29.6.95, it was made clear that the applicant was not to be engaged on sensitive post as SB, RD, NSC etc. In other words, by this order the applicant was divested of the work involving public money/cash transactions in respect of SB, RD, NSC etc. The aforesaid order of 29.6.95 also did not indicate that although the applicant was not to be engaged on sensitive post but he would continue to discharge the functions of joint custodian as provided in Note of the distribution of work (Annexure R-4). Moreover, the respondents vide para 4.4 of their reply have admitted that the applicant was engaged to perform the duties of PA-II. In such a situation, it is therefore not understood as to how the respondents had expected the applicant to be the joint custodian and to verify the cash and stamps balance held by SPM daily. Therefore, in our view respondents should not have charge-sheeted the applicant on this ground.

9. During the course of the arguments, learned senior counsel for the respondents argued that the applicant was assigned part of duties of PA I and part of the duties of PA II. However, no order to this effect was shown to us. Even otherwise, asking a person, that too without any written order, to perform part of duties Postal Assistant-I and part of duties of other post is uncommon in service jurisprudence and unheard of. That apart, it

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does not sound to logic that a person who was debarred to work on a sensitive post of cash handling like SB, RD and NSC was expected to perform the duties of joint custodian of cash and stamps. Therefore, the contention of the learned counsel for the respondents to the above effect does not sound convincing and is rejected.

10. We further find that the respondents have not come with any convincing grounds for the delay in issuance of charge-sheet on 22.3.2000 for the incident that occurred during the period from 16.9.95 to 5.10.96 and the punishment order passed in July, 2000. They have also failed to convince that the applicant was the joint custodian for overnight safe custody of Govt. cash and valuables as no such order has been shown to us. Moreover, the plea taken by the respondents that the main culprit Shri Man Singh had not made good the loss sustained by the department till date also cannot be a valid ground for charge-sheeting the applicant, holding him responsible for the loss of government money.

11. For the reasons discussed above, the OA is allowed and the impugned orders dated 19.7.2000 and 21.10.2000 are quashed and set aside. The recoveries already effected from the salary of the applicant pursuant to the impugned orders shall be refunded to the applicant immediately and in any case within a period of two months from the date of receipt of a copy of this order, but in the circumstances, the claim for interest is rejected. There shall be no order as to costs.

M.P. Singh
(M.P. Singh)
Member(A)

/gtv/

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice-Chairman(J)