

29

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.916/2000

New Delhi, this 10th day of April, 2002

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

Surinder Singh Dagar
27A/1, Okhla, Harkesh Nagar
New Delhi

.. Applicant

(By Shri S.K. Gupta, Advocate)

versus

Union of India, through

1. Secretary
Department of Posts
Dak Tar Bhawan, New Delhi
2. Member (Personnel)
Department of Posts
Dak Tar Bhawan, New Delhi
3. Director Postal Services
Dehradun Region, Dehradun
3. Sr. Supdt. Post Offices
Ghaziabad Region, Ghaziabad

.. Respondents

(By Shri N.S. Mehta, Advocate)

ORDER(oral)

Shri M.P. Singh, Member(A)

Applicant by filing the present OA has sought direction to quash and set aside the enquiry report (A/1), orders dated 23.12.97 (A/2), 24.11.98 (A/3) and 31.1.2000 (A/7) and also has sought further direction to the respondents to reinstate him in service with all consequential benefits.

2. The admitted facts of the case are that the applicant, while working as EDBPM, Bambhawa, Ghaziabad Division was issued memo dated 10.6.1996 under Rule 8 of EDA (Conduct & Service) Rules, 1964. He was involved in a case of misappropriation of the following amounts during the period 1993-95:

ms

21

(i) Fraudulent withdrawal of Rs.1500 on 8.10.93 from SB a/c.No.1514495 and Rs.500 dated 20.8.94 from SB a/c. No.1508585;

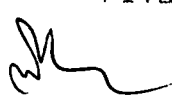
(ii) Misappropriation of amount of deposit dt. 5.1.95 for Rs.102 of RD a/c.No.169615;

(iii) Misappropriation of amounts of deposit dt. 13.10.94, 29.4.95 and 9.6.95 for Rs.800, Rs.700 and Rs.100 respectively in respect of RD a/c.No.170335; and

(iv) Misappropriation of value of MO No.3324/86 dt. 28.3.95 for Rs.500/-.

3. Thereafter, the Inquiry Officer (IO) who conducted the enquiry submitted his findings to the disciplinary authority (DA) concluding that charge 1 and 4 partly proved and charge 2 and 3 fully proved. A copy of the enquiry report was furnished to the applicant vide letter dated 19.8.97 for making representation. Applicant submitted his representation on 10.9.97 and thereafter DA after taking into the said representation and findings of IO and other relevant material on record, imposed a penalty of dismissal from service upon the applicant vide its order dated 23.12.97. Applicant preferred an appeal against the order of DA and the appeal was rejected by the appellate authority vide its order dated 24.11.98. Thereafter applicant's revision petition was also rejected vide order dated 31.1.2000. Aggrieved by this, applicant has filed the present OA seeking the aforesaid reliefs.

4. Heard the contentions of the learned counsel for the rival contesting parties and perused the records.



5. During the course of the arguments, learned counsel for the applicant has taken two grounds in challenging the aforesaid impugned orders, i.e. certain additional documents which were asked for by the applicant were not furnished to him and that certain witnesses were not allowed to be examined and they were dropped.

6. On the other hand, learned senior counsel for the respondents has submitted that the request of the applicant for additional documents was duly considered by IO and ASPO's diaries were shown to applicant on 17.12.96 which is clearly mentioned in order sheet of IO dated 17.12.96. The complaints of the defrauded SB a/c holders and remitter of MO were not provided because these were not available on records as all these cases of frauds came to light during verification of past work of applicant. According to the respondents, the enquiry was held as per procedure laid down and also the applicant has been provided opportunity to defend his case. He also drew our attention to para 2 of the appellate order dated 24.11.98, in which it has been stated that the applicant did not indicate the relevance of the documents required by him to be produced by the Government as required vide note below Rule 14(ii)(iii) of CCS(CCA) Rules, 1965 and as such the action of DA in not supplying the requisite documents cannot be said to be irregular. Regarding the second ground, appellate authority has stated that PW and DW were dropped by IO with the consent of Presenting Officer and applicant respectively and not by IO at his own as is evident from the order sheet dated

MR

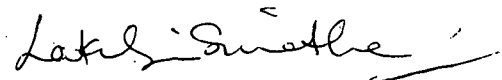
8.4.97. Also the plea of the applicant that his defence statement was not obtained by IO at the close of the case on behalf of DA is also not correct, as the daily order dated 8.4.97 clearly shows that the defence statement of applicant was submitted to IO during the hearing dated 8.4.97. In view of the aforesaid position, the grounds taken by the learned counsel for the applicant are not tenable and therefore be rejected.

7. From the records placed before us, we find that the enquiry has been conducted as per procedure laid down and therefore the principles of natural justice ~~was~~^{were} observed. We also find from the records that the applicant had requested for certain additional documents but he did not indicate the relevance of these documents. Therefore the action taken by the respondents in not supplying the documents cannot be found faulted. As regards examination of PW and DW, they were dropped by IO with the consent of PO and applicant respectively and therefore the two grounds taken by the applicant are not tenable and accordingly rejected. We further find that DA, appellate authority and revisional authorities have passed reasoned and speaking order and we do not find any justification to interfere with the same.

8. For the reasons recorded above, the OA fails and is dismissed accordingly. No costs.



(M.P. Singh)
Member(A)



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

/gtv/