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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.430/88

Date of decision: 22.9.1993

Guru Dutt Sharma

.. Petitioner.

Versus

Union of India through
The Secretary,
Ministry of Communications,
Department of Posts,
New Delhi & Ors.

.. Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the petitioner - Shri Sant Lal, Counsel.

For the respondents - Mrs Raj Km. Chopra, Counsel.

JUDGEMENT (ORAL)
(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner, Shri Guru Dutt Sharma, was at the relevant point of time functioning as Sub-Post Master at Patperganj. He was subjected to a disciplinary inquiry in respect of three charges which were denied by the petitioner. The Inquiry Officer after inquiry made a report to the effect that the charge No. III is not held proved and the charges No. I and II are held proved. The disciplinary authority accepted those findings and passed an order, Annexure-I, dated 29.9.1987 directing recovery of Rs.9000/- from the petitioner towards the loss caused to the administration in a monthly instalment of Rs.250/- per month. On appeal, the said order was affirmed by order dated 28.1.1988, Annexure A-2. It is in this background that the petitioner has challenged the orders of the disciplinary authority and the appellate authority.

2. Shri Sant Lal, learned counsel for the petitioner, urged that the direction to recover the loss caused to the

administration is a minor penalty which can be awarded only if the conditions specified in Rule 11(iii) of the CCS(CCA) Rules,1965 are duly satisfied. The said provision states that the recovery from pay can be imposed as a minor punishment if any pecuniary loss is caused by negligence or breach of orders. It was contended that there is no charge nor is there any allegation to the effect that the petitioner caused any pecuniary loss to the Government by his negligence or by acting breach of any orders. Charges I and II which are held proved against the petitioner read as follows:

"Article-I. That the said Shri Guru Dutt Sharma while functioning as SPM Patperganj PO Delhi-92 on 7.2.86, remitted cash of Rs.15,030/- (Rs.Fifteen thousand thirty only) in cash bag duly enclosed in a/c bag in excess of the prescribed limit of Rs.15,000/- (Rs.Fifteen thousand only) and has violated the provision of Rule No.583(A) as further circulated vide this office circular no. G-3/Auth-Balance/85-86 dated 3.1.86 of P&T Manual Vol. VI Part-III.

Article-II. That the said Shri Guru Dutt Sharma(I) while functioning as SPM Patperganj PO Delhi-92 on 7.2.86 closed Patperganj PO at 16.40 hours of the prescribed closing time of 17.00 hrs and has violated the provision of Rule 51 of P&T Manual Volume VI Part-I".

3. We have also seen the statement of allegation in support of these two charges which also do not contain any averment to the effect that any loss was caused to the administration by conduct of the petitioner which is either negligent or is one in breach of the relevant orders. The principal allegation in Charge No. 1 is that whereas the relevant orders permitted the cash being sent to the extent of Rs.15,000/-, in the cash bag the petitioner has sent an amount of Rs.15030/-. In other words, the breach of the orders lies in sending Rs.30/- more than the prescribed limit. Shri Sant Lal, learned counsel for the petitioner, submitted that Rs.15000/- is a limit is not borne out by any relevant orders. The Inquiry Officer also records a finding to the effect that even the Presenting Officer has not produced any order prescribing the limit of Rs.15000/- for being sent in the cash bag. Even assuming that there is such stipulation, what is striking is that the breach is insignificant and does not merit any disciplinary inquiry. It is only a small amount of Rs.30/- sent in the cash bag more than the prescribed limit of Rs.15000/-. Assuming that there is limit of Rs.15000/-, our first reaction is that, having regard to the insignificant violation of the order, this is not a case which really merited a disciplinary inquiry about Charge No.1. Be that as it may, if the authorities were keen on holding a disciplinary inquiry for the purpose of imposing penalty contemplated by Rule 11(iii), they should have framed the charge alleging that a particular loss has been caused which is attributable to the negligence or the violation of the relevant orders of the petitioner.

There is absolutely no allegation that any loss has been caused by the conduct of the petitioner by sending in the cash bag Rs.30/- more than the prescribed limit of Rs.1500/-. The principle of natural justice requires that the petitioner should be given an opportunity of meeting the case which is sought to be made out against him. If the petitioner was negligent in the discharge of his function assuming for the sake of arguments that the amount did not reach the destination that by itself is not sufficient to hold the petitioner guilty. What is necessary to establish is the link between the loss caused and the conduct of the petitioner. That link is missing here. There is no finding in this behalf also. We, therefore, hold that the petitioner is not guilty of causing loss by acting in contravention of the relevant orders. Besides, being bad for want of a proper charge in this behalf, the finding also must be characterised as perverse.

4. So far as charge no. 2 is concerned, the allegation is that the petitioner left the office at 1640 hours instead of 1700 hrs. The explanation of the petitioner is that he received message from his wife that his son met with an accident and was reeling under pain and that, therefore, it became necessary for him to rush to the aid of his son. Having regard to this background, we are not inclined to take the view that it merits imposition of any punishment in respect of charge no.2.

5. For the reasons stated above, this application is allowed and the impugned orders of the disciplinary authority

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Annexure A-1 and that of the appellate authority Annexure A-2 are hereby quashed. The recovery, if any, made on the strength of the impugned order shall be refunded to the petitioner expeditiously. No costs.

Adige
(S. R. Adige)
Member (A)

Malimath
(V. S. Malimath)
Chairman

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