

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/546/2012

Order Reserved on 09.07.2020

DATE OF ORDER: 20.07.2020

CORAM

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER

Bhanwar Lal Khatik Son of Shri Gopi Ram, aged about 43 years, resident of C/o Jagdish Prasad Bundela, 182, Ganga Sagar Colony, Vaishali Nagar, Jaipur. Last employed as Postal Assistant, Ratangarh Head Post Office (Churu), (removed from services).

....Applicant

Shri C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communications and Information Technology, Dak Bhawan, New Delhi – 110001.
2. Chief Post Master General, Rajasthan Circle, Jaipur-302007.
3. Director Postal Services, Rajasthan Western Region, Jodhpur-342001.
4. Superintendent of Post Offices, Churu Postal Division, Churu-331001.

....Respondents

Shri N.C. Goyal, counsel for respondents.

ORDER

Per: Hina P. Shah, Judicial Member

The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking for the following reliefs:

- “(i) That entire record relating to the case may kindly be called for from the respondents and after perusing the same order of appellate authority vide memo dated 10/04/2012 (Annexure A/1) with the punishment order dated 13/12/2010 (Annexure A/2) be quashed and set aside with all consequential benefits.
- (ii) That the charge memo dated 14/03/2008 (Annexure A/4) with the Inquiry Proceedings including inquiry report (Annexure A/11) be quashed and set aside, as the same is not justified as per facts and circumstances.
- (iii) Any other order, direction or relief may be passed in favour of the applicant, which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the costs of this application may be awarded.”

2. Brief facts of the case as stated by the applicant are as under: -

The applicant was initially appointed as Postal Assistant in Sriganganagar Division on 25.09.1990 and, thereafter, he came to Churu Division in April, 1991. He was placed under suspension vide Memo dated 28.08.2006. He made a representation against the said

suspension on 13.12.2006 stating that he was not responsible for any work carried out in Parcel Branch as he was working in Registry Branch and Parcel Branch with the M.O. Therefore, the suspension order passed against him is not justified. Thereafter, a preliminary enquiry was conducted against the applicant in connection with misappropriation of amount of VPL/VP Articles. The respondent No. 4 served him major penalty charge-sheet under Rule 14 of CCS (CCA) Rules, 1965 vide Memo dated 14.03.2008. The applicant denied the said allegations. Thereafter, Inquiry Officer as well as Presenting Officer were appointed and the enquiry proceedings were conducted against the applicant on certain dates. The applicant states that the enquiry was conducted on certain dates, which was not informed and they were conducted ex-parte. The applicant made a request to respondent No. 4 on 23.04.2009 that he is not feeling well and that he may be allowed to leave HQ for medical check-up and in response to that respondent No. 4 vide letter dated 24.04.2009 directed him to intimate correct date of the enquiry. But the Inquiry Officer conducted the enquiry ex-parte and recorded statement of prosecution witness. It is also stated by the applicant

that Inquiry Officer conducted ex-parte enquiry without extending any chance for defence witnesses and the allegations were proved against him. In response to the enquiry report, the applicant submitted his representation on 20.08.2009. The applicant states that he was not allowed to cross examine the prosecution witnesses and the punishment of removal from services was imposed on him without considering the quantum of punishment vide Memo dated 13.12.2010 (Annexure A/2). Against the said order dated 13.12.2010, the applicant approached the C.A.T., Jodhpur Bench by filing O.A. No. 09/2011 and the same was dismissed as withdrawn with liberty to prefer an appeal before the competent authority. Thereafter, the applicant preferred an appeal against the punishment of removal from services before respondent No. 3 on 27.01.2011. The Appellate Authority rejected the appeal of the applicant vide Memo dated 10.04.2012 (Annexure A/1) without considering the points raised by the applicant in the said appeal. Therefore, he prays that the punishment order dated 13.12.2010 (Annexure A/2) passed by the Disciplinary Authority as well as order dated 10.04.2012 (Annexure A/1) passed by the

Appellate Authority and the Charge Memo dated 14.03.2008 (Annexure A/4) be quashed and set aside.

3. After issue of notices, respondents have filed their reply and state that the applicant while working as Postal Assistant in Parcel Branch at Ratangarh HO on 15.05.2006 and 03.06.2006 received Chinchini Ins. VP Parcel No. 267 dated 08.05.2006 for Rs. 4000/- A/T Shri Girdhari Lal Soni, near Ganesh Mandir Ratangarh duly entered in Parcel List dated 14.05.2006 and Amritsar VP Parcel No. 687 dated 31.05.2006 for Rs. 500/- A/T M/s Ajitsariya Trading Co. near Khadi Bhandar Ratangarh duly entered in parcel List dated 02.06.2006. Though the amount was received by the applicant on the same day but he did not remit the said amount to the senders of the Articles and pocketed the money worth Rs. 4725/-. He misappropriated Government money to the tune of Rs. 4725/-. Therefore, he was served with a charge-sheet under Rule 14 of CCS (CCA) Rules, 1965. The said charge-sheet was issued to the applicant on 14.03.2008. After conducting enquiry under Rule 14 as per existing rules and after going through the relevant records, representation and enquiry report, the applicant was

awarded with the punishment of removal from service vide order dated 13.12.2010. Thereafter, the applicant preferred an appeal dated 27.01.2011 and the same was rejected by the Appellate Authority on 10.04.2012. The respondents deny the contention of the applicant that he was not working in Parcel Branch. As per the statements of Shri Mukna Ram, Postman dated 17.03.2007 and 12.10.2007 as well as Shri Vishwanath, Postman dated 17.03.2007 and Shri D.M. Bhargawa, the then PM Ratangarh HO dated 24.09.2007, clearly show that the applicant was working in Parcel Branch on 15.05.2006 and 03.06.2006. It is a statement of the respondents that the Inquiry Officer has conducted enquiry as per rules and relevant documents asked by the applicant have been supplied to him. The dates were already informed by the Inquiry Officer in advance about the conducting of the enquiry proceedings but the applicant did not attend the hearing on 26.11.2008 and 04.02.2009. The Inquiry Officer had again directed the applicant vide order-sheet No. 07 dated 04.03.2009 for attending the hearings, otherwise the enquiry will be conducted ex-parte. Therefore, the enquiry was conducted as per rules and looking at the gravity of the charges, the

punishment imposed on the applicant is just and proper.

4. Heard learned counsels appearing for the applicant as well as respondents and perused the material available on record.

5. The grounds raised by the applicant are that the Inquiry Officer has conducted the enquiry ex-parte, no reasons have been given by the Inquiry Officer for doing the same and has nowhere obtained the statement of prosecution witnesses and merely on the basis of the statement taken in fact finding enquiry, the respondents cannot violate principles of natural justice as the applicant was deprived from cross examination of the witnesses. Therefore, the action of the Inquiry Officer is liable to be quashed and set aside. The next ground raised by the applicant is that he was allowed merely 04 documents out of 13 documents demanded by him and, therefore, the Inquiry Officer has not followed the procedure. The third ground raised by the applicant is that at the relevant time, he was nowhere working in the Parcel Branch, therefore, the action of the respondent No. 4 i.e. Disciplinary Authority in

imposing the punishment of removal from services does not commensurate with the gravity of charges and, therefore, the same is liable to be quashed and set aside. The applicant has also raised a ground that the points raised by him in his appeal have been rejected by the Appellate Authority without any findings. Therefore, the applicant states that the orders passed by the respondent-authorities are liable to be quashed and set aside as the same are not justified.

6. The sum and substance pertaining to the grounds raised by the applicant is that the Inquiry Officer has conducted ex-parte hearings. It is seen from the Inquiry Officer's letters that the applicant was asked by the Inquiry Officer vide letter No. Inquiry/08-09 dated 17.11.2008, 19.01.2009 and 25.02.2009 for attending the hearings but the applicant did not attend the hearings on 26.11.2008 and 04.02.2009. Since the applicant did not remain present on the said dates, the Inquiry Officer again directed the applicant vide order-sheet No. 07 dated 04.03.2009 to attend the hearings, otherwise ex-party hearing will be conducted. Therefore, it is clear that the Inquiry Officer has

conducted the enquiry as per rules and has not violated any rules.

7. Pertaining to the ground raised by the applicant that he was only provided with 04 documents instead of 14 documents, it is clear that the Inquiry Officer provided the relevant documents and the irrelevant documents were not allowed by the Inquiry Officer. It is also noted that the Inquiry Officer directed the applicant to produce a list of additional documents vide order sheet No. 02 dated 23.05.2008 and the said documents were supplied to the applicant.

8. The essential point raised by the applicant is that when the incident took place pertaining to misappropriation of fund, he was not working in the Parcel Branch. It is seen that as per the nominal roll of Ratangarh HO, the applicant has worked in Parcel Branch at Ratangarh HO on 15.05.2006 and 03.06.2006. The same can also be checked from the statement of Shri Mukna Ram, Postman dated 17.03.2007 and 12.10.2007 as well as from statement of Shri Vishwanath, Postman dated 17.03.2007 and also from the statement of Shri D.M. Bhargawa, the

then PM Ratangarh HO dated 24.09.2007. Therefore, there is ample evidence available on record to show that the applicant was working in Parcel Branch at Ratangarh on 15.05.2006 as well as 03.06.2006.

9. As far as the ground raised by the applicant that the punishment is harsh and looking to the amount of Rs. 4725/-, he can be granted some other punishment instead of removal from services. It is noted that the Postal Department is a public utility service and misappropriation of even a single rupee will spoil the image of the department. It is seen that the applicant has taken the money from the concerned persons but did not remit the said amount to the senders and has pocketed the said amount. Also, it is seen that ample opportunities were granted to the applicant during the enquiry proceedings to remain present but the applicant instead of knowing particular dates, failed to remain present and, therefore, since he has misappropriated Government money, the punishment of removal from service awarded to him by the Disciplinary Authority cannot be said to be harsh or disproportionate.

10. As far as the points raised by the applicant in his appeal dated 27.01.2011 are seen, it is clear that the Appellate Authority on the basis of the material placed before him has gone through the appeal in detail and considered each and every ground raised in his appeal in a fair and just manner, therefore, it cannot be said that the Appellate Authority has not considered his appeal in a fair manner. The Appellate Authority has given his findings on all grounds raised by the applicant in his appeal, which can be clearly seen from the order dated 10.04.2012 (Annexure A/1) passed by the Appellate Authority.

11. It is clear that the Inquiry Officer has completed the enquiry as per the provisions contained in Rule 14 (1 to 23) of the CCS (CCA) Rules, 1965. The Disciplinary Authority, after carefully examining the enquiry report, evidence available on record, looking to the other facts and circumstances of the case and gravity of the charges, has rightly imposed the penalty of removal from service vide order dated 13.12.2010. Also, it is clear that the Appellate Authority vide its order dated 10.04.2012 has considered all the grounds raised by the applicant in his appeal and considered all

material placed on record and upheld the punishment of removal from service and rejected his appeal by a reasoned and speaking order. There is also no flaw in the enquiry proceedings conducted by the Inquiry Officer and the orders passed by the Disciplinary Authority as well as Appellate Authority.

12. Accordingly, the punishment order dated 13.12.2010 (Annexure A/2) passed by the Disciplinary Authority, order dated 10.04.2012 (Annexure A/1) passed by the Appellate Authority and the charge memo dated 14.03.2008 (Annexure A/4) as well as enquiry report do not deserve to be quashed and set aside and the present Original Application is, therefore liable to be dismissed, which is hereby dismissed with no order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

Kumawat