

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

REGN.NO. D.A. 22/87

DATE OF DECISION: 23rd July, 1992.

Munshi Lal.

... Petitioner.

Versus

Union of India & Ors.

... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

... Shri Sant Lal,
Counsel.

For the Respondents.

... None.

JUDGEMENT (ORAL)

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

The petitioner was Sub Postmaster at Kalkaji. A disciplinary inquiry was held against him alleging that he has committed certain misconduct. On 26.3.1983, the statement of the charge memo and the statement of the imputation were duly served on him. The misconduct is alleged in the background of a representative of M/s Tata Consultancy Service coming to the post office with bulk of articles of first class mail which they wanted to be accepted under the system of postage to be prepaid in cash. The duty of the petitioner was from 0745 to 1145 hrs and 1500 to 1800 hours. The alleged incident is said to have taken place at about 1130 hrs. The allegation is that when the petitioner was approached by the representative of M/s Tata Consultancy/ Service he agreed to accept the mail without

any written application containing particulars of the mails to be posted by them. The further allegation is that the petitioner verbally ordered his subordinates, namely, the ASPM (Mails) Shri Gurdas Ram and the Mail Clerk Shri Kartar Singh, to accept the articles. It is further alleged that Shri Kartar Singh, Mail Clerk, informed the petitioner that as the bundles contained more than 3000 articles, they cannot be accepted from one party whereupon the petitioner stressed that they should be accepted and that his order should be carried out. The ASPM and the Mail Clerk reluctantly started counting the articles and found that each bundle contained more than one hundred articles. Then, the petitioner directed Sarveshri Manohar Lal Sharma, Ram Chander, Mewa Ram and G.R. Garg, Postal Assistants, to count each bundle presented for posting and prepare fresh bundles of 200 articles each. After giving these directions, the petitioner left the office at 1150 hours after handing over the stamp of "Postage prepaid in cash" to the ASPM Shri Gurdas Ram. It is further alleged that the petitioner also directed the representative of M/s Tata Consultancy Service that he should pay Rs.3/- for refreshment to each of the four officials who were put on the job of counting the bundles. This, according to the statement of imputation, injured the sentiments of the staff. The staff being unsatisfied with the orders of the SPM consulted some of the colleagues and also discussed the matter with SSPOs South Extension, New Delhi. He then ordered that the said

mail should not be accepted and recorded his remarks in the error book. After the petitioner returned to resume duty after lunch hours, the representative of M/s Tata Consultancy Service brought to the notice of the petitioner that the mail was not accepted by his subordinates. Shri Nazar Singh, who was the ASPM on duty at that time, informed the Divisional Office about the irregular orders of the SPM for acceptance of the mail without any application giving the particulars of the mails to be posted. The petitioner when asked on phone about the case by the SSPQs, an application for permission to post 18,000 articles was obtained and sent through the party by hand to SSPQs for seeking his permission. The permission was, however, declined. It is in this background that it is alleged that the petitioner committed misconduct, firstly, in issuing directions to the subordinates to act contrary to the Rules, directing the subordinates to accept more than 3000 articles on the system of postage to be prepaid in cash. The other accusation is that the petitioner committed misconduct when he called upon the representative of M/s Tata Consultancy Service to pay Rs.3/- for refreshment to each of the four officials who were put on the job of counting^{the articles}/. In other words, the allegation is that the petitioner made a suggestion that the representative of M/s Tata Consultancy Service should pay some amount by way

of illegal gratification, to the officials who were put on the job. The petitioner gave the reply on 5.3.1985. He had also sought inspection of copies of certain documents, some of which were given and some were not. On consideration of the reply of the petitioner, the disciplinary authority passed an order imposing penalty of withholding of next increment for a period of two years without cumulative effect. The said order has been affirmed by the appellate and revisional authorities. Hence this petition.

2. Shri Sant Lal, learned counsel for the petitioner, submitted that there has been denial of reasonable opportunity of showing cause in the matter because the respondents did not permit the petitioner to inspect the documents which he mentioned at Serial Nos. 6 to 9, 11, 12 in the application dated 1.8.1984 nor were copies of the same furnished to him. This, according to him, resulted in prejudice in defending his case. It was further submitted that no materials have been placed to show that there were particular orders which regulated the system of postage to be prepared in cash. It was contended that there was nothing to show that there was any prescription prescribing that the articles beyond a particular number should be received on an application or with the permission of the superior authority. He, therefore, submitted that the orders are liable to be interfered with.

3. As already stated that there are three principal charges which have been held proved against the petitioner. One is in regard to the direction which the petitioner is said to have given to his assistants in regard to dealing

with the postal articles brought by the representative of M/s Tata Consultancy Service and on other about the statement which he is said to have been made to the representative of M/s Tata Consultancy Service to pay Rs.3/- to each of the four postal assistants who were put on the job of receiving postal articles.

4. So far as finding in regard to the improper conduct of the petitioner in calling upon the representative of M/s Tata Consultancy Service to pay Rs.3/- to each of the four postal assistants is concerned, we find that the charge has not been denied by the petitioner in his reply. The allegation in the charge memo is that the petitioner asked the representative of M/s Tata Consultancy Service to pay Rs.3/- to each of the four postal assistants. If the petitioner made such a statement that would amount to misconduct. This does not need arguments to convince us. We say so because it amounts to calling upon the representative of M/s Tata Consultancy Service to pay Rs.3/- to each of the four postal assistants for doing their job. This is clearly illegal and improper. If the petitioner, who was the Head of the office made such a statement, it will certainly amount to misconduct. The question for consideration is whether the petitioner did make such a statement. The imputation is that the petitioner directed the representative of the firm of M/s Tata Consultancy Service that he should pay Rs.3/-

for refreshment to each of the four officials for counting the bundles of articles. To this, the reply of the petitioner is contained in paragraph 3 of Annexure A-11 which reads as follows:

"The allegation against me regarding my alleged direction to the representative of M/s Tata Consultancy Services to pay Rs.3/- for refreshment to each official is ill advised, misconceived and malafide, as no statement of M/s Tata Consultancy Services or their representative made by them or obtained by the department from them in this regard has been supplied to me though demanded by me vide serial 6,7 and 12 of my application dated 1.8.1984".

We have no hesitation in saying that there is no denial of the principal accusation made against the petitioner that he made a particular statement to the representative of M/s Tata Consultancy Service to pay Rs.3/- to each of the four officials. The petitioner has tried to meet the case of the department in this behalf by characterising the case of the department as ill advised, misconceived and malafide. This statement cannot be regarded as denying the accusation that he made the particular statement. We say so because the petitioner himself has given the reason as to why he says that the case of the department is ill advised, misconceived and malafide. He says so because no statement of M/s Tata Consultancy Service or the representative of M/s Tata Consultanc

Service made by them or obtained by the department from them in this regard has been supplied to him though he demanded supply of copies of the same. In other words, the failure on the part of the department to furnish copies of the statement, if any, recorded from M/s Tata Consultancy Service, has given rise to the inference that the case of the department in this behalf is ill advised, misconceived and malafide. Nothing was simpler if that was the truth than to state that he did not call upon the representative of M/s Tata Consultancy Service to pay Rs.3/- for refreshment to each of the four officials who were put on the job of counting the postal articles. We have, therefore, no hesitation in saying that there is no denial of the allegation that the petitioner made a statement to the representative of M/s Tata Consultancy Service to pay Rs.3/- for refreshment to each of the four officials who were put on the job of counting the postal articles of the said firm. There is, therefore, clear admission of the charge by non-traverse. That being the position, no further proof was required to establish the charge. In the circumstances non furnishing of certain documents which the petitioner sought in this behalf does not affect the finding of the disciplinary authority. So far as this particular charge is concerned, it stands established by admission by non traverse of the petitioner in this case. In our opinion, the finding on


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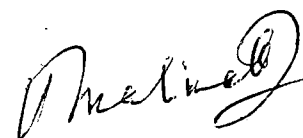
this particular charge itself is sufficient to warrant the imposition of penalty of withholding of one increment. We say so because it is a serious misconduct of calling upon the representative of M/s Tata Consultancy Service to pay certain amount to the officials of the postal department for doing the legitimate official work. The conduct of the petitioner, therefore, stands established in calling upon the representative of M/s Tata Consultancy Service to pay certain amount for doing their duty. This is a very serious charge and imposition of withholding of one increment as a punishment if at all is on the lighter side.

5. Having regard to the aforesaid discussion, we consider it unnecessary to embark upon examination of several other contentions, which Shri Sant Lal advanced in support of his case challenge to other findings of the disciplinary authority, the appellate authority and the revisional authority.

6. For the reasons stated above, this petition fails and is, therefore, dismissed. No costs.

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(I.K. RASGOTRA)
MEMBER (A)


(V.S. MALIMATH)
CHAIRMAN