

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 4th day of October, 2021

Original Application No. 330/00695/2014

Hon'ble Mr. Tarun Shridhar, Member (Administrative)
Hon'ble Ms. Pratima K Gupta, Member (Judicial)

Daya Shankar Ram, Son of Late Lal Chand Ram,
 R/o Village Bajaha, P.O. Bisukia, District-Balia.

. . .Applicant

By Advocate : Shri B.N. Singh

V E R S U S

1. Union of India through its Secretary, Ministry of Communication and Information Technology, Department of Post, Dak Bhawan, New Delhi.
2. The Sr. Supdt. Of Post Offices, Azamgarh Division, Azamgarh.
3. The Director Postal Services, Gorakhpur Region, Gorakhpur.

. . .Respondents

By Adv: Shri R.P. Mishra

O R D E R

By Hon'ble Mr. Tarun Shridhar, Member (Administrative)

Shri B.N. Singh, learned counsel for the applicant and Shri R.P. Mishra, learned counsel for the respondents are present.

2. The present original application has been filed by the applicant challenging the punishment order dated 24.02.2014 passed by respondent no.2 by which two punishments i.e. censure and the recovery of Rs.2,63,466 from him in equal 82 installments of Rs.3,213/- per month have been imposed upon him.

3. Brief facts of the case are that the applicant who was posted as Postal Assistant was subjected to disciplinary proceedings under Rule 16 of CCS (CCA) Rules 1965 on the allegations that his lack of supervision led to an embezzlement of Rs.1354081/. Since it was the proceedings under Rule 16 of CCS (CCA) Rules which is the rule for minor penalty no formal enquiry was held and the disciplinary authority i.e. Sr. Superintendent of Post Offices, Azamgarh imposed the penalty of censure upon him along with the order that part of the embezzlement amount to the tune of Rs.2,63,466 shall be recovered from him in 82 installments of Rs.3213/-.

4. Learned counsel for the applicant argues that censure and recovery from any peculiarly loss caused to the Government are two distinct and separate penalties under Rule 11 of CCS (CCA) Rules 1962 and it is legally inadmissible to impose two penalties under the same rule. He avers that the disciplinary authority could not impose the penalty of recovery and determine the amount to be recovered without any enquiry. He further argues that on this single ground the whole proceedings are vitiated. Learned counsel for the applicant further argues that no direct involvement of the applicant has been established in the alleged embezzlement. He points out that the embezzlement took place in the Rudrapur Post Office while the applicant was posted in Deoria Head Post Office only for a very short period.

5. Learned counsel for the respondents on the other hand points out that enquiry in the disciplinary matters for minor penalty is not mandatory and since the matter relates to financial embezzlement, the disciplinary authority has imposed the penalty which is fair and just. He further argues that the order passed by the disciplinary authority is not liable for challenge as it is a very clear speaking and reasoned order.

6. We have heard learned counsel for the parties at length and carefully examined all the documents on record.

7. In our considered view the inference of direct involvement of the applicant in the embezzlement of the above amount and then subjecting him to the penalty of recovery of that amount should have taken place only after a detailed enquiry which could establish his direct or even indirect involvement in the said embezzlement. No doubt the order passed by the disciplinary authority is a detailed order, however, it fails to meet the criteria of a speaking order as nowhere has it conclusively established that the applicant was intricately involved in the said misconduct. The disciplinary authority has discussed the reply given by the applicant through the memorandum of charges but not gone on to obtain any evidence either in support of the charges or to rebut what the applicant states. Therefore, in our view, the impugned order with respect to the order of recovery of Rs.263466/- from the applicant is bad in the eyes of law on these two grounds viz (i) imposition of two penalties simultaneously under the same Rule in the same proceedings, and (ii) that the recovery has been ordered without holding any enquiry which could establish that the applicant was responsible and hence liable for this recovery.

8. In view of the above, the present original application is allowed and the impugned order dated 24.02.2014 bearing no.B/SBCO/Daya Shankar Ram/DP-II is quashed. No order as to costs.

(Pratima K Gupta)
Member (Judicial)

(Tarun Shridhar)
Member(Administrative)

/Neelam/