

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

O.A. NO. 349 of 1988

Sri T.N.Pandey Applicant.

Vs.

P.M.G.Lucknow & others. Respondents.

Hon'ble Mr. Justice U.C. Srivastava , V.C.

Hon'ble Mr.K. Obayya, A.M.

(By Hon'ble Mr. K. Obayya , A.M.)

The applicant while working as EDBPM Shahipur, Handia, Allahabad, was proceeded with for certain acts of omission and Commission resulting in misappropriation of certain amount. Charge-sheet dated 30/12/1982 was served on the applicant for violation of Rule 13 of Branch Post Office Rules and Rule 17 of the Post and Telegraph Extra Departmental Agents (Conduct and Service) Rules 1964 in that on 30/4/1979 in Recurring Deposit Account No. 2082286 of Rs 5/- denomination the applicant made entry of Rs 15/- (5+5+5) in the Pass Book but in the Branch Post Office account, he made entry of receipt of Rs 5/- only; Again on 30/8/1980, in Deposit Account No. 2082392 of Rs 20/- denomination, the entry in the Pass Book was made for deposit of Rs 20/- but in the Post Office Account he entered receipt of Rs 10/- only. Thus the applicant committed misappropriation of the sums by showing lesser amounts of deposit in the Post Office account. The applicant was put off duty on 6/8/1983 and in the enquiry that followed,

b.

(2) (6)

- 2 -

the Enquiry Officer in his report dated 4/12/1983, held the charges proved. The disciplinary authority accepted the findings of enquiry officer, and passed order of removal from service against the applicant on 17/7/1984. He preferred an appeal which was rejected by the Appellate Authority on 7/1/1985. He also preferred a review petition to P.M.G. Lucknow which ^{was} / also rejected vide order dated 9/9/1985.

2. The applicant assails the impugned order on ground that he has not committed any mistake and the Depositor has admitted that only the amounts which are in Savings Bank Account was deposited by him and that the mistake in making the entry of the Pass Book was due to rush of work, it is also contended by the applicant that the statements of the witnesses were not properly appreciated and that since no training was given to him, in maintenance of Savings Bank Account there was mistake committed by him.

3. The respondents opposed this case and in the counter filed them, it is stated that the applicant admitted the guilt and he was proceeded under rule 8 of EDA conduct and service rules, 1964. It is pointed out that the enquiry was properly held and the applicant was given opportunities to explain his case. Regarding pay-in-slips it is stated that if the Depositor remitted wrong amount, the applicants should have made entries in the Pass Book correctly after comparing entries of Pass Books with ~~that~~ the amounts as filled in the pay slip but he did not do so and the credit of Rs 20/- remained unclassified and it is also stated that the Depositor was an Advocate and he would not have made wrong entries in the pay-in-slip.

b

(2) (7)

It is also pointed out that the findings are based on facts proved during enquiry and that the orders of the Disciplinary Authority and the Appellate Authority were passed after appreciation of facts and assessment of the evidence and also by due application of mind.

4. We have heard the counsels for the parties. The learned counsel for the applicant's contended that the applicant did not commit any offence but he was punished arbitrarily and illegally. His further contention was that pay-in-slips were not given to him, though he has asked for the same and in the absence of clinching evidence, it can not be said that the applicant committed any irregularity in these circumstances. The order of the removal was passed by the Disciplinary Authority in the absence of any evidence. The Depositor also gave statement that he only deposited the amount which is entered in the account books and that there was only a mistake in entry in the pass book and for that mistake punishment should not have been given to him. The learned counsel for the respondents countered this by stating that the applicant has admitted the wrong entry made in the account book, and that during the enquiry it was established that the ^{amount} ~~xxxxx~~ entered in the pass book was actually ^{deposited} but the applicant only showed lesser amount in the pass book. The enquiry was properly held and the order of the Disciplinary Authority was passed after considering and appreciating the evidence. The Appellate Authority also considered the pleas raised by the applicant and hence they do not suffer from any irregularity or illegality.

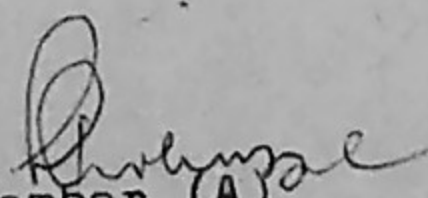
5. We have given our anxious consideration to the rival contentions and also the arguments made on both sides. The applicant admittedly entered in the account book lesser amount, than the amount shown in the pass book as deposited on the relevant dates. He explained that this was due to rush of work and that he was not given any training in maintenance of accounts. He also raised the plea of non-production of pay-in-slips and that as no monetary loss was caused to Government, the punishment imposed is excessive and arbitrary. From the record it is seen that all these pleas were considered by the Disciplinary Authority and also the Appellate Authority. The Enquiry Officer held that the charges were clearly established. The duties enjoined on the applicant consists of responsibility to verify the entries in the Pass Book and also tally with the entries made in the account book. The entries in the Pass Book were endorsed by the applicant himself. Similarly, the entries in the account book were also entered by the applicant himself. He has been working in the seat for some time, and the plea of ignorance or want of training, can not condone the mistake as the work was not complicated and it consisted of only making correct entries in the account book after due verification. Want of care and negligence in performance of duty is clearly established. Thus there was a clear violation of rules. In these circumstances it can not be said that the impugned order was passed without any material or evidence. In U.O.I. Vs. Parmananda (1989 (2) SCC 177, the Supreme Court held :-

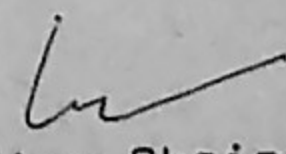
"The jurisdiction of the Tribunal to interfere with the disciplinary matter or punishment

(4) (9)

can not be equated with an appellate jurisdiction. The Tribunal can not interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala-fide is certainly not a matter of the Tribunal to concern itself with. The Tribunal also can not interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

6. In this background of legal position and also considering the facts and circumstances of the case, we are of the view that the application is devoid of any merit and accordingly it is dismissed with no order as to costs.


Member (A)


Vice Chairman

DATED 19th Oct 1992

/am/