

CENTRAL ADMINISTRATIVE TRIBUNAL      ALLAHABAD BENCH

ALLAHABAD.

Dated : This the 08th day of JULY 2003.

Original Application no. 216 of 2000.

Hon'ble Maj Gen K.K. Srivastava, Member-A  
Hon'ble Mr. A.K. Bhatnagar, Member-J.

Raj Narain Ram, S/o Late Sagar Ram,  
R/o 1/31 Hari Colony Juhu Kanpur.

... Applicant

By Adv : Sri O.P. Gupta

Versus

1. Senior Superintendent of Post Offices,  
City Division Kanpur.
2. Director Postal Services Kanpur,  
in the office of P.M.G. Kanpur.
3. Members (P) Postal Service Board,  
Dak Bhawan Sansad Marg, New Delhi.
4. Hon'ble the President of India, New Delhi,  
through Govt. of India, Deptt. of Posts,  
Dak Bhawan, New Delhi.
5. Union of India through Secretary Ministry of  
Communication, Govt. of India, Department of Posts,  
Dak Bhawan, New Delhi.

... Respondents

By A.V. : Sri S.C. Mishra

ORDER

Hon'ble Maj Gen K.K. Srivastava, A.M.

In this OA, filed under Section 19 of the A.T. Act, 1985, the applicant has challenged the punishment order dated 21.4.1989 (Ann A2), by which the applicant was dismissed from service. He has also challenged the Appellate Order dated 16.10.1989 (Ann A3), Revision order dated 26.07.1990 and Review order dated 6.4.1999 (Ann A5). The applicant has prayed that the punishment order dated 21.4.1989 (Ann A2),

Appellate order dated 16.10.1989 (Ann A3), Revision order dated 26.7.1990 (Ann A4) and Review order dated 06.04.1999 (Ann A5) be quashed with direction to the respondents to re-instate the applicant as Sub Post Master (in short SPM), Rawatpur, with all consequential benefits, including salary and seniority for the intervening period.

2. The facts, in short, are that the applicant while working as SPM, Rawatpur, was served with the charge sheet dated 29.2.1988 for misappropriating Govt. money. An enquiry was held under Rule 14 of CCS (CCA) Rules 1964. The charges were held as proved and on completion of Disciplinary Proceedings, the Disciplinary Authority passed the punishment order dated 21.4.1989 (Ann A2), awarding punishment of dismissal from service with immediate effect. The applicant filed an Appeal before Appellate Authority i.e. Director Postal Services (in short DPS), Kanpur (respondent no. 2), who rejected the Appeal of the applicant vide order dated 16.10.1989 (Ann A3). The applicant filed a petition before revisionary authority who rejected the petition vide order dated 26.7.1990 (Ann A4). Thereafter, the applicant filed a Review petition before President of India, which was also rejected vide order dated 6.4.1999 (Ann A5). Aggrieved by <sup>which</sup> ~~which~~, the applicant has filed this OA, which has been contested by the respondents by filing counter affidavit.

3. Sri O.P. Gupta, learned counsel for the applicant, submitted that the applicant was not trained to work as SPM. He officiated as SPM from 8.3.1986 to 16.3.1986. During this period a case of mis-appropriation of Rs. 1000/- was made <sup>in from</sup> ~~in~~ <sup>h</sup> <sup>h</sup> <sup>h</sup> against the applicant, which he realised <sup>8</sup> RD <sup>depositor</sup> <sup>of</sup> varying amounts on 11.3.1986, made deposit entries in respective pass books and also made entries in RD journal. However, the

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applicant committed an omission of not showing the credit in the Sub Office Accounts. On another date i.e. 13.3.1986, he committed a similar mistake of not showing the credit of Rs. 353/- in the Sub Office Accounts. Learned counsel for the applicant submitted that had the applicant any intention of ~~any~~ misappropriation, he would have not made the entries in pass book as well as RD journal. A preliminary enquiry was made by Assistant Sub Post Offices (in short ASPOs) on 2.9.1986 and the applicant on the direction of ASPOs deposited Rs. 1353/- in the Govt. Account. The learned counsel argued that there has been no loss to the Govt. and the case of misappropriation is not established.

4. Learned counsel for the applicant further submitted that during preliminary enquiry, statements of three depositors was obtained, which has been made as a basis for awarding extreme punishment of dismissal. Learned counsel for the applicant argued that during enquiry no depositors <sup>had been</sup> appeared in examination and cross examination and, therefore, in absence of the same the enquiry ~~was not~~ <sup>Conclusive</sup> vitiated. There has been no solid proof to establish the case of mis-appropriation against the applicant.

5. Learned counsel for the applicant again submitted that admission should be clear cut, which is not so in this case. Admission recorded during preliminary enquiry was as per the dictation by the ASPOs. In case the same was to be made as the basis of proving charge, there was no requirement of holding any enquiry. Therefore, the Disciplinary Proceedings held against the applicant are not as per law and the punishment awarded is liable to be quashed.

6. Learned counsel for the applicant finally submitted

that for an amount of Rs. 1353/- the punishment of dismissal is too heavy and the case of the applicant merits sympathetic consideration as regard to quantum of punishment.

7. Opposing the claim of the applicant, learned counsel for the respondents, submitted that the track record of the applicant is not clean. The applicant was placed under suspension in another case of like nature vide order dated 15.2.1988. It has been averred by the respondents in para 3 of their counter affidavit that the applicant was addicted with such a habit and whenever he was posted in Savings/Branch or got a chance, he committed such misconduct. Learned counsel for the respondents further submitted that the fraud came into light on receipt of complaint of the depositors and since the claim of the depositors had been sanctioned and settled by the Deptt it appears that they were no more interested in participating in the enquiry.

8. Learned counsel for the respondents finally submitted that such a person, as the applicant is, not fit to be retained in Govt. service.

9. We have heard learned counsel for the parties, considered their submissions and perused records.

10. In para 3 of the counter affidavit the respondents have quoted number of misappropriations committed by the applicant. From perusal of the counter affidavit, it appears that the applicant has a history of misappropriations. We find substance in the submission of the respondents that since the complaint of the depositors had been settled, they were no more interested in participating in the enquiry. Therefore, we do not agree with the submission of learned counsel for the applicant that the enquiry was vitiated

as no depositors was examined/cross-examined during enquiry proceedings.

11. It has not been denied by the applicant that during preliminary stage he made a confession of committing misappropriation. It is also not denied that the applicant deposited the amount of Rs. 1353/- under unclassified receipt. Therefore, the applicant cannot absolve himself from the charges levelled against him. A full-fledged enquiry was held and the applicant was given reasonable opportunity to defend himself. The findings of the Enquiry Officer are based on evidence on record and charges stands proved. In our opinion a person of doubtful integrity is not a fit person to be retained in the Post Office where handling of huge cash is involved. Therefore, in our opinion the quantum of punishment is commensurate to the charges proved against the applicant.

12. For the aforesaid reasons, we do not find any good ground for interference. The OA is devoid of merit and is liable to be dismissed. The OA is accordingly dismissed with no order as to costs.



Member (J)



Member (A)

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