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CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 179/90

T.A. NO.

DATE OF DECISION 14-7-94

Shri Prabhudas Ranchhoddas Tanna Petitioner

Shri M.N. Popat

Advocate for the Petitioner (s)

Versus

Union of India and Others

Respondent

Shri Akil Kureshi

Advocate for the Respondent (s)

CORAM

The Hon'ble Mr.

K. Ramamoorthy

Member (A)

The Hon'ble Dr.

R.K. Saxena

Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No

(21)

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Prabhudas Ranchhoddas Tanna
Sub Post Master
Sherbaug Dist. Junagadh.

Applicant.

Advocate Mr. M.N. Popat

Versus

1. Union of India
through the Chief Post Master General
Gujarat Circle, Opposite Income Tax
Office, Ashram Road, Ahmedabad.
2. Director of Postal Service, Rajkot
Region, Gandhi Road, Rajkot.
3. Superintendent of Post offices,
Junagadh Division, Gandhigram Junagadh.

Respondents.

Advocate Mr. Akil Kureshi

J U D G M E N T

In

Date: 10-7-94

O.A. 179/1990

Per Hon'ble Dr. R.K. Saxena


Member (J)

This application has been filed by Shri Prabhudas Ranchhoddas Tanna challenging the order dated 22-1-1990 App.1 that he (applicant) did not appear fit to hold independent charge of the office.

2. According to the applicant, he was Sub-Post-Master Sherbaug, District Junagadh in the year 1989. One 'D' sealed bag containing registered letters, money orders etc was received on 30-5-1989 from post office Malia Halina. The said bag was sent by Saurashtra Mail and the delivery of the same was taken by one

Shri Laxman Bachu Sevra who was working as an Extra Departmental Packer at Sherbaug Sub-Post Office. The bag was brought at Sherbaug Post Office for its onward journey to Chorwad Town Post Office. Shri Laxman Bachu Sevra handed over the said bag to Shri Narsinh Devsi who was a Mail-Peon of Chorwad Town Sub-Post-Office. Usually Shri G.A. Shaikh Mail-Peon of Chorwad Town Post Office used to come for this purpose but on 30-5-1989 he was on leave and Shri Narsinh Devsi was then sent in his place. According to the arrangement, the postal bags used to be carried by State Road Transport bus but on that date the bus was late. During the period of waiting for the bus, the said 'D' bag for Chorwad Town Post Office and which was in the custody of Shri Narsinh Devsi, was removed and replaced by another bag. It was detected at Chorwad Town Post Office where the bag was opened and found that the same was empty. The cash of Rs. 10,000/- and other postal articles were, thus lost. The suspicion fell on Shri G.A. Shaikh because on that date, though being on leave, he visited Sherbaug Sub-Post Office and had enquired of the — Mail bag of Malia Hatina. The post master Chorwad Town Post Office lodged the report. Shri G.A. Shaikh confessed before the police that he had removed the original 'D' bag received from Malia Hatina and was substituted the another bag. He had also deposited Rs. 10,000/-.

3. The contention of the applicant is that he brought all these facts to the notice of the department but instead of



appreciation, he was served with Memo dated 13-2-1990 about initiation of departmental proceedings against him. The respondents without giving any opportunity of hearing passed impugned order on 22-1-1990. On receipt of the impugned order the representation was made by the applicant on 30-1-1990 but was rejected on 4-4-1990. The respondents on the one hand held the applicant unfit for independent charge by impugned order but on the other hand the Memo was issued and ultimately the punishment of censure was also awarded on 28-3-1990. Thus he was punished twice. The irony is that Shri ^{Shaikh} Shailesh who had committed ^{the} ~~this~~ fraud, was given the work of delivery of Mail Bag particularly 'D' bag. It is, therefore, urged that the impugned order of declaring the applicant unfit to hold independent charge, be quashed.

4. The respondents filed the counter affidavit and admitted that Shri G.A. Shaikh was the main culprit for removing Shri Narsinh Devsi from near the bags at the bus-stand on the pretext of drinking soda water. It is averred that Shri G.A. Shaikh who was on leave, was allowed by the applicant to remain in the office on 30-5-1989 and to know that two mail bags were to go to bus-stand. Exchange of mail was allowed without obtaining the acknowledgement of the receiving officials in the mail list. It is also averred that the balance report was written without physical verification.

5. The respondents have denied that double punishment has been given or no opportunity was given. It is also

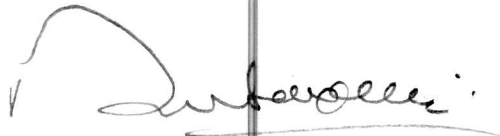
said that the applicant who was working as T/S S.P.M. is proposed to be transferred as A.P.M. which is higher in status. The censure entry on the basis of memo which was served on the applicant, is admitted to have been given.

6. In view of these averments the disputed area is very much narrowed down. The applicant has been given censure entry and before that he was declared unfit to hold independent charge. The grievance of the applicant is that the order of his being found unfit to hold charge, was passed on his back and without affording any opportunity. This order is deemed — by the applicant as penalty and was awarded for the same facts or incident for which he was censured. The *Summum bonum* ^{of an employee} of any or every service is that one may hold independent charge. If the attraction is gone, the employee feels frustrated ~~xxx~~ because of the stigma being attached to him. No doubt, such an order is not covered by any minor penalty in its strict or literal sense but in its spirit, it carries the same effect. The scope of principles of natural justice is so vast that every administrative order which affects the rights of others, should stand ^{this} ~~its~~ test.

7. The punishing authority while censuring the conduct of the applicant, in regular disciplinary proceedings, appears to be convinced that the applicant could not ^{be} ~~he~~ defaulted gravely under these circumstances also, the stigma of not getting independent charge should not remain on record. Reconsideration of it will also obliterate the blame of double jeopardy.

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8. In the light of the above discussion, we direct the respondents to consider the representation of the applicant to be made within four weeks and dispose of sympathetically within another period of four weeks ~~therefrom~~ ^{disposal of}. With these directions, the application is ~~allowed~~. No order as to costs.



(Dr. R.K. Saxena)
Member (J)



(K. Ramamoorthy)
Member (A)

*AS.