

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 427/91
~~T.A. No.~~

DATE OF DECISION 22/12/1994.

Shri Harilal Rathod Petitioner

Mr. K.C. Bhatt Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Mr. Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. V. Radhakrishnan Member (A)

The Hon'ble Mr. Dr. R.K. Saxena Member (J)

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

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Shri Harilal Rathod,
(Ex.E.D.Packer)
Mirabai Temple Road,
BET (Okha) - 361 330.

...Applicant.

(Advocate : Mr.K.C.Bhatt)

Versus

1. Union of India,
through the Director-General
Department of posts,
Ministry of Communication,
Parliament Street,
New Delhi - 110 001.
2. The Chief Postmaster General,
Gujarat Circle,
Ahmedabad - 380 001.
3. The Postmaster General,
Rajkot Region,
Rajkot - 360 001.
4. The Supdt. of Post Offices,
Jamnagar Division,
Jamnagar - 361 001.
5. The Sub-Divisional Inspector of Post Offices,
Khambhalia Sub-Division,
Khambhalia - 361 305.

...Respondents.

(Advocate : Mr.Akil Kureshi)

JUDGMENT

O.A.NO. 427 OF 1991.

Date : 22/12/1994.

Per : Hon'ble Mr.V.Radhakrishnan : Member (A)

Heard Mr.K.C.Bhatt and Mr.Akil Kureshi learned advocates for the applicant and the respondents respectively.

2. The applicant was working as E.D.Packer in the Post Office at Bet from 17.5.1982. He was issued the charge sheet (Annexure-R/1) on 2.4.1990, as he had tried to remove some postal stamps from New Delhi. By filing this application the applicant prayed for the following


reliefs :

- (A) The impugned order passed by the Sub-Divisional Inspector (P) Khambhalia under Memo No. PF/EDPKR/ Bat-90 dated 12.1.91 regarding discharge from service be quashed and set aside the punishment and the respondent authority be directed to re-instate the applicant with all consequential benefits as he was in job from the date of him putting off duty (Annexure-A/1).
- (B) The appellate order issued by the appellate authority under Memo No. B2/12/Appeal/HRD/91 dated 8.7.91 be quashed and set aside.
- (C) The respondent authority be directed to pay the cost of this applications the applicant was a very low paid servant.
- (D) Any other suitable relief as deemed proper.

2. At the time of the final hearing, however, Mr. K.C. Bhatt for the applicant stated that he was not contesting the points mentioned in the application and only confined himself to the quantum of punishment imposed on the applicant. He stated that the punishment of removal from service imposed on the applicant was too harsh with reference to the alleged misconduct committed by the applicant. He therefore, prayed that the respondents may be directed to review punishment, viz., removal from service and to impose any other punishment less than that of the removal.

3. We have heard the arguments and gone through the documents filed in the application. The charge against the applicant was that he had tried to remove two postage stamps of Rs.2/- each which were affixed on the envelope received from New Delhi. It is stated that he was caught red handed in the act by the Sub-Postmaster. It appears that the applicant admitted his lapse initially and also before the Inquiry Officer. Based on the applicant's admission, the Inquiry Officer submitted his report stating that the charge against the official stood proved. Thereafter punishment of removal from service was imposed on the applicant as per Rule-7 of E.D.Agents(Conduct & Service)Rules, 1964.

4. It is true that the applicant might have admitted the charge against him. On that account the enquiry was not held. The authorities did not also go into any further evidence. It was argued by Mr.K.C.Bhatt, learned counsel for the applicant that the applicant is a low paid employee who had studied upto VIII th standard in Gujarati Medium. According to him, he had admitted the charge because he was afraid that he may be imprisoned in contravention of Section 54-B, as stated in the charge-sheet issued to him. It is also seen that Section 54 B of the Indian Post Offices Act is not applicable in this case. It is quite possible that the applicant must have been over-whelmed by this quotation of Indian Post Offices Act in the charge sheet and admitted his guilt. We have been shown the envelope containing the two stamps.

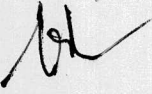


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It was seen that both the stamps were cancelled by post mark in the originating office at New Delhi. It is doubtful as to what the applicant could have gained by removing the cancelled stamps. The applicant had already put in nine years service and he would have known the implications of doing what he has been alleged to have done. Even assuming that his admission of the charge is bonafide, it has to be seen as to what punishment he deserves for the offence of trying to remove two cancelled postage stamps. During the discussions at the Bar, Mr. Akil Kureshi learned counsel for the respondents pointed out that at that time the applicant was imposed the punishment of removal from service, because only three punishments were provided in Rule 7 of E.D.A. (Service and Conduct) Rules, 1964.

- (i) Recovery from allowance of the whole or part of any pecuniary loss caused to the Govt. by negligence or breach of orders ;
- (ii) Removal from service, which shall not be a disqualification for future employment ; and
- (iii) Dismissal from service, which shall ordinarily be a disqualification for future employment.


The Rule was amended by the D.G.(P) letter No.10-4/90-Vig.III dated 16.05.1991, by which six more penalties were included in the said Rule, viz.,

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- i) Censure;
 - ii) Debarring of ED Employees for appearing in the examination for Postmen/Postal Assistants/Sorting Assistants for a period of one year or two years or for a period not exceeding 3 years ;

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- iii) Debarring of ED employees for promotion for a period not exceeding three years ;
- iv) Recovery from allowance of the whole or part of any pecuniary loss quashed to the Government by negligence or breach of orders ;
- v) Removal from service which shall not be a disqualification for future employment.
- vi) Dismissal from service which shall ordinarily be a disqualification for future employment.

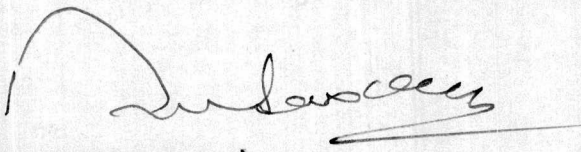
5. Even though the scope of avoiding lesser punishment than dismissal and removal was not available to the disciplinary authority before the above amendment was made, the situation is changed now and six more minor penalties are available which can be imposed on the guilty official. Taking into account the gravity of the offence and also the fact, the applicant is a low paid E.D.Packer, who has completed nine years service, the punishment imposed viz., removal from service is too harsh. As already stated Mr.K.C.Bhatt learned counsel for the applicant will be satisfied if he is reinstated in service and any one of the minor penalties is imposed on the applicant. He has dropped the challenge on other grounds. We feel that ends of justice will be met if the penalty of removal from service imposed on the applicant is replaced by any one the minor penalties introduced by the D.G.(P)'s letter No.10-4/90-Vig. III dated 16.5.1991. Accordingly, the case is remanded to the disciplinary authority with the following order :

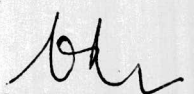


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ORDER

"The order passed by Sub-Divisional Inspector dated 12.1.1991, Annexure-A and Appellate Order dated 8.7.1991, Annexure-A/1, are quashed and set aside. The Disciplinary Authority is directed in the light of the discussions made above to reconsider imposition of ^{any} other penalty as per Rule-7 as per D.G.(P)'s letter dated 16.5.1991, and reinstate the applicant in service within a period of four weeks from the date of receipt of this order. The applicant will not be entitled to claim any back wages. However, his break in service from the date of his removal to the date of his reinstatement shall count for retirement benefits. The application is disposed of accordingly. No order as to costs!"


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


(V. Radhakrishnan)
Member (A)

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