

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUT ACK.

O.A.No.448 OF 1988.

Date of decision - 29th August, 1989

Bhagabat Bishoyee,
Son of late Bhola Bishoyee,
Ex-E.D.D.A. Tanarada S.O.,
At/P.O. Tanarada, Dist-Ganjam.

..... (s) Applicant

Versus.

1. Union of India, represented by
its Secretary, Department of Posts,
Dak Bhavan, New Delhi.

2. Postmaster General, Orissa Circle,
At/P.O. Bhubaneswar, District-Puri.

3. Superintendent of Post Offices,
Aska Division, At/P.O. Aska,
District-Ganjam.

4. Sub-Divisional Inspector (Postal),
Bhanjanagar, Sub-Division,
At/P.O. Bhanjanagar, Dist-Ganjam.

..... Respondents

M/s Devanand Misra, Deepak Misra
and Anil Deo, Advocates

..... For Applicant

Mr. Tahali Dalai, Additional
Standing Counsel (Central)

..... For Respondents

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SEN GUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

J U D G M E N T.

N. SEN GUPTA, MEMBER (JUDICIAL). The facts briefly are that the applicant was working as an Extra-Departmental Delivery Agent at Tanarada Sub-office in the district of Ganjam. Along with other money orders he was entrusted to pay an amount of Rs.120/- to one Anjali Kumari Behera on 15.2.85. He paid Rs.100/- on that day but did not return the balance of Rs.20/- to the Postmaster of the Sub-office. A report was made to the said Postmaster about the short payment and thereafter, a departmental proceeding was started against him. In that departmental proceeding only one charge was framed and that related to violation of sub-rules (2) and (3) of Rule 716 of the Posts and Telegraphs Manual and failure to maintain absolute integrity and devotion to duty as required under Rule 17 of the Posts and Telegraphs Extra-Departmental Delivery Agents (Conduct and Service) Rules, 1964. During course of enquiry, the applicant admitted that in fact on 15.2.85 he did not pay Rs.120/- but paid only Rs.100/- as he had no Rs.20/- in change and he really paid the amount to the payee on 17.2.85. Acting on this admission, the enquiring officer held that the charge was proved and the disciplinary authority imposed a penalty of his removal from service vide Annexure-2. He preferred an appeal but did not succeed. So he came to this

Tribunal for the relief of quashing the orders passed vide Annexures- 2 and 3 and reinstating with all back-wages.

2. Mr. Tahali Dalai, learned Additional Standing Counsel for the Central Government has urged that in fact the applicant has lacked integrity in not returning Rs.20/- to the Postmaster nor did he make the said p[redacted] to the payee on the day the money order was entrusted to him. There ~~was~~ no ostensible reason for quashing the impugned orders and granting the relief as prayed for by him.

3. It has now been settled beyond controversy that this Tribunal really does not sit as an appellate court or an authority in the matter of departmental proceedings, its function is limited to see whether there was any denial of natural justice or if the proceeding was vitiated with procedural irregularity. Only in these eventualities this Tribunal can interfere. For the appreciation of what is going to be stated below, it is better to quote the charge:

" That Sri Bhagabat Bissoyi while functioning as E.D.D.A., Tanarada S.O. on 15.2.85 was given TPO-0-514 M.O. No.3643 dated 9.2.85 for Rs.120/- with cash for payment to the payee, but instead of paying Rs.120/- to the payee, he paid Rs.100/- in contravention of Rule 706 (2) of P and T Manual Vol.VI Part.III. He did not return the short paid amount in respect of the said M.O. to the S.P.M., Tanarada as required under Rule 706(3) of P and T Manual Vol. VI Part-III and thereby failed to maintain absolute integrity and devotion to duty as required of him under Rule-17 of P and T. E.D. Agents (Conduct and Service) Rules, 1964."

4. The Enquiring officer in his report vide Annexure-1 found that in fact Kumari Anjali Behera was paid Rs.100/- and not Rs.120/-, that was an undisputed fact. The disciplinary authority opined that as the applicant did not return Rs.20/- to the Postmaster of the Sub-office, he was guilty of violation

of the rules mentioned above. On reading a copy of the enquiry report, it can easily be found that the Enquiry officer really did not find the applicant to have had any intention not to pay the balance of Rs.20/- to the payee on 15.2.85. Therefore, there is no case of temporary misappropriation which in turn would lead to ^{the} other inference, i.e. absence of lack of integrity. So it is now to be examined whether by his action, the applicant violated either sub-rule (2) or sub-rule (3) of Rule 706 of the Posts and Telgraphs Manual.

5. Sub-rule (2) of Rule 706 of the Manual states that the postman should require the payee or the person authorised by the payee in writing ~~in writing~~ to receive money orders on his behalf and to sign the receipt and acknowledgement in ink and he should also see that after receipt of the amount, the payee or the authorised person signs the receipt in the portions meant for receipt and acknowledgement in the money order form. In the instant case, there is no dispute that the payee signed and as would be found from Annexure-R/1 the payee wrote in Oriya that she received Rs.120/- on 15.2.85. Therefore, it is not understood how in the circumstances ~~that~~ there could have been a violation of sub-rule (2) of Rule 706 of the Manual.

Sub-rule (3) reads as below :

" All money orders given out for payment must, as an absolute rule, be returned (together with the acknowledgements) to the money order clerk and the money (if any) remaining undischursed to the treasurer, before the office is closed for the day. The accounts between the postmen, the treasurer and the money order clerk must be adjusted before the close of the office."

On reading this provision, it would be manifest that this covers only such of the cases where a money order is not paid to the payee and it cannot cover a case where any short payment has

been made. Therefore, the case of the applicant does not also fall within the purview of sub-rule (3). Thus it would be found that the charge as framed is not sustainable in law. Accordingly the order of the disciplinary authority removing the applicant from service is is quashed, and consequently the order of the appellate authority rejecting the appeal also stands quashed.

Mr. Misra, learned counsel for the applicant, under the facts and circumstances of the case, does not press for back wages. ~~xx~~ of the applicant.

6. The application is accordingly disposed of, leaving the parties to bear their own costs.



B.R. PATEL, VICE-CHAIRMAN,

I agree.

M. S. Misra
29.8.89

MEMBER (JUDICIAL)

B. R. Patel
29.8.89

VICE- CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack,

The 29th August, 1989/Jena, Sr.P.A.