

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.126 of 2006
Cuttack, this the 13th day of August, 2009

Bijaya Kumar Singh Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.126 of 2006
Cuttack, this the 13th day of August, 2009

C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
A N D
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

.....
Bijaya Kumar Singh, aged about 50 years, S/o.Late
Kishore Prasad Singh, At/Po-Kandajuri, Via-Luisingha,
District-Bolangir.

.....Applicant

Advocate for Applicant: M/s. D.P.Dhalsamanta,
P.K.Bhera.

-Versus-

1. Union of India represented through its Director General, Department of Posts, Ministry of Communication, Government of India, Dak Bhawan, New Delhi-110 001.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda.
4. Director of Postal Services, Office of the Postmaster General, Sambalpur Region, Sambalpur.
5. Senior Superintendent of Post Offices, Bolangir Division, Bolangir, At/Po/Dist. Bolangir.

....Respondents

Advocate for Respondents: Mr.U.B.Mohapatra

O R D E R

Per-MR.C.R.MOHAPATRA, MEMBER (A):-

Applicant was working as GDS BPM of Kandajuri

Branch Post Office in account with Loisingha Sub Post Office.

For alleged act of commission and omission disciplinary proceedings under Rule 10 of the GDS (Conduct and Employment) Rules, 2001 was initiated against him. As a result of the proceedings he was imposed with the punishment of removal under Annexure-A/4 dated 27.12.2004. He challenged this in appeal and the appellate Authority having rejected the appeal of the Applicant under Annexure-A/6 dated 05.08.2005, Applicant has approached this Tribunal challenging both the

orders as illegal with prayer to direct the Respondents to reinstate him in service with all consequential benefits.

2. Respondents filed their counter objecting to the contentions raised by the Applicant in his Original Application *inter alia* stating therein that the Applicant while working as GDSBPM of Kandajuri BO in account with Loisingha SO during the period from 01.09.1976 to 04.07.2002 received Kundukela SO MO No.4086 dated 01.03.2002 for Rs.2000/- payable to Sri Manchita Rana, Village-Pandarani PO-Kandajuri via Loisingha on 08.03.2002 at Kandajuri BO for effecting payment. The Applicant paid the aforesaid Money Order to other than the real payee on 21.03.2002 falsifying LTI in Money Order paid voucher. Besides that the Applicant while working as such accepted Rs.20/- and Rs.200/- from Shri Ram Narayan Brahma on 03.04.2002 for making deposit in RD Account No.1100773 and 1100699 standing open at Kandajuri BO in the name of Sri Haladhara Brahma and Sri Ram Narayan Brahma respectively. But the applicant did not credit the accepted money into the post office account as required under rules and regulations. Moreover, the applicant accepted Rs.4500/- on 03.11.2001 from the depositor Shri Jasobanta Dash for making deposit in Kandajuri SB Account No.57900 standing open at Kandajuri BO but did not credit the said amount into the post office account as required under rules thereby committed grave offence intentionally and deliberately in gross violation of the Rules and Regulation of the Post Office. There were three articles of charge framed against the

applicant. The IO conducted the enquiry. Applicant was allowed sufficient opportunity to participate in the enquiry. The IO after conducting the enquiry submitted its report holding Article Nos.II and III fully proved and Article No.I as not proved. After following the Rules, and going through the records, the Disciplinary Authority imposed the order of punishment of removal. The Appellate Authority on receipt of the appeal of the applicant examined the points raised in the appeal vis-à-vis the records of the proceedings and found no irregularity or illegality in the matter of conducting the enquiry or in the manner of affording opportunity to the Applicant and rejected the Appeal in a well reasoned order. Accordingly, the Respondents have prayed that as there was no violation of the rules or natural justice both in conducting the disciplinary proceedings and passing the orders by the Disciplinary Authority and Appellate Authority this Original Application is liable to be dismissed.

3. Heard the rival submission of the parties and perused the materials placed on record. The main contention of the Applicant in course of the hearing is that the IO's report holding Article II & III as proved is based on no evidence as the depositor has categorically stated that he has not tendered money to the applicant in respect of charge No.II and the depositor in respect of charge No. III has also stated that he has taken back money immediately. His second contention is that the order of disciplinary authority is cryptic one because it does not bear the discussion of the evidence adduced and reported by the IO in his report and the disciplinary authority only

extracting the report of the IO imposed the order of punishment. His third contention is that though he has brought this fact to the notice of the Appellate Authority, the said authority without due application of mind rejected the appeal of the Applicant, confirmed the harsh punishment imposed for no fault of his by the Disciplinary Authority. He has, therefore, sincerely prayed for allowing the relief claimed by him in this Original Application.

4. Respondents' counsel on the other hand strongly opposed the above contention of the Applicant that the order of punishment was passed without any evidence. By drawing our attention to various discussions made by the IO in his report, he has submitted that it cannot be said that this is a case of no evidence. Similarly it has been argued by him that what punishment to be imposed for the proved misconduct falls within the domain of the appropriate authority. Since the Department lost the faith on the applicant for his proved misconduct, with due application of mind to various factors, in a well reasoned order passed the order of punishment of removal which has been confirmed by the Appellate Authority. By stating so, Learned Counsel for the Respondents reiterated his prayer for dismissal of this OA.

5. Before proceeding further in the matter it is profitable to take extract of the Articles of the charges framed against the Applicant. It reads as under:

"Article-I

That Shri Bijayua Kumar Singh, while working as GDS BPM, Kandajuri BO in

account with Loisingha SO during the period from 01.9.1976 to 04.7.2002 received Kundukela SO MO No.4086 dt.01.03.2002 for R.2000/- (two thousand) only payable to Manchita Rana, At-Pandarani PO Kandajari Via-Loisingha on 08.03.2002 at Kandajuri BO for effecting payment. But the said Sri Singh, without making payment of the MO to its real payee shown it as paid on 21.3.2002.

That the said Sri Singh by his above action displayed misconduct and violated the provision of Rule 106 of BO Rules (6th edition) and thereby failed to maintain absolute integrity and devotion to duty as required of him under Rule 21 of GDS (Conduct & employment) Rules, 2001.

Article-II

That Sri Bijaya Kumar Singh while working as such accepted Rs.20/- and Rs.200/- from Sri Ram Narayan Brahma for making deposits in Kandajuri BO RD Account No.1100773 & 1100699 on dated 03.4.2002 respectively. But said Sri Singh did not credit the amount into Post Office account as required under Rule 144 read with Rule 143(3) and Rule 131(3) of BO Rules (6th edition).

Thus, by his above action, said Sri Singh exhibited lack of absolute integrity and devotion to duty as required of him under Rule 21 of GDS (Conduct & employment) Rules, 2001.

Article-III

That Sri Bijaya Kumar Singh, while working as such, accepted Rs.4500/- on 03.11.2001 from the depositor Sri Jasobanta Dash for making deposit in his S.B. Account No.57900, standing opened at Kandajuri BO but did not credit the amount into post office account as required under Rule 131 of BO Rules (6th edition).

Thus, the said Sri Singh by his above action displayed gross misconduct and violated Provisions of Rule 131 (3) of BO Rules (6th edition) and thereby failed to maintain absolute integrity and devotion to duty as required of him under Rule 21 of GDS (Conduct & Employment) Rules, 2001."

6. On perusal of the report of the IO it is seen that the IO after taking note of all materials in record and after

discussing the statements recorded during enquiry came to the categorical finding that charges under Article II & II are proved. Similarly, the Disciplinary Authority after taking note of the report of the IO in his order came to the conclusion that this is a case which warrants imposition of the punishment of removal and accordingly imposed the punishment and the appellate authority rejected the appeal of the applicant in a well reasoned order giving no scope or room for intervention.

7. It is significant to note that Courts/Tribunal can interfere in the disciplinary proceedings and in the order of punishment imposed thereby on an employee if the decision is illegal or suffers from procedural improprieties or is one which no sensible decision-maker could, on the materials before him and within the frame work of the law, have arrived at. The Courts/Tribunal would consider whether relevant matters had not been taken into account or whether the action was not bona fide. The Court/Tribunal would also consider whether the decision was absurd or perverse. The Court would not, however, go into the correctness of the choice made by the administrator amongst the various alternatives open to him; nor could the Court/Tribunal substitute its decision to that of the administrator (Ref: **Union of India and another v G.Ganayutham (death) by LRs**, AIR 1997 SC 3387. Circumstances leading to interference in Disciplinary Proceedings, have more exhaustively been dealt with by the Hon'ble Supreme Court in the case of **State Bank of Patiala & Others v S.K.Sharma**, JT 1996 (3) SC 722. From the foregoing

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discussions it would be evident that none of the *paramateria* enunciated by the Hon'ble Apex Court in the aforesaid decisions has been fulfilled by the Applicant enabling us to interfere in the order of punishment. As such we are constrained to hold that the Original Application sans any merit. Accordingly, for the discussions made above, this OA is dismissed by leaving the parties to bear their own costs.

Thankappan

(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

Ch. Mohapatra
(C.R. MOHAPATRA)
MEMBER (ADMN.)

K. nm, ps