

13

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00138 OF 2012

Cuttack, this the ~~10~~¹¹ day of November, 2017

CORAM

HON'BLE MR. S. K. PATTNAIK, MEMBER(J)

HON'BLE DR. M. SARANGI, MEMBER (A)

.....

Rabinarayan Lenka,
aged about 67 years,
S/o- Balabhadra Lenka,
of Village-Mahadia, PO-Belpada,
P. S. Motanga, District-Dhenkanal,
Retired Assistant Postmaster of Angul Head Office,
At/PO/District-Angul.

...Applicant

(By the Advocate-M/s. L. K. Mohanty, S. Pattnaik, D. K. Mohanty)

-VERSUS-

Union of India Represented through

1. Secretary to Govt. of India, Department of Post, At-Dak Bhawan, New Delhi.
2. Director of Postal Services, Sambalpur Region, At/PO/District-Sambalpur.
3. Superintendent of Post Offices, Dhenkanal Division, At/PO/Town/District-Dhenkanal.
4. Union Public Service Commission, represented through its Secretary, At-Dholpur House, Shajahan Road, New Delhi-110011.

...Respondents

By the Advocate- (Mr. S. Behera)

.....

S. Pattnaik
10/11/17

ORDER

S.K.PATTNAIK, MEMBER (JUDL.):

The applicant challenges the order of punishment dated 28.12.2011 (Annexure-4) by which there has been order of withholding of 15% of monthly pension and for recovery of Rs. 40,000/- from the Gratuity towards balance amount of loss sustained by the department.

2. Applicant's case, in short, runs as follows:

The applicant while working as Assistant Postmaster, Angul Head Office, was served with a charge memo dated 27.02.2004 on the allegation of lack of supervision and not ensuring proper custody of the Indira Vikash Patra discharge list of Dhenkanal Head Office and keeping the department in darkness about the genuineness of the I.V.P. to the tune of Rs. 4,20,400/- and double encashment of the single I.V.P. on several dates at Dhenkanal Head Office. The applicant submitted his reply denying the charges and ultimately retired on superannuation w.e.f. 31.3.2004. He submitted that even though the proceeding was concluded way back in 2006 but no order was passed. The main allegation against the applicant was that due to lack of supervision, Postal Assistant, viz. Sri P.K.Tripathy, could manage to double encash the Kisan Vikash Patra and misappropriated the deposit of public. The main plank of argument of the applicant is that since he was not directly involved to the misappropriation and rather entire defalcation was attributed to Sri P.K.Tripathy, Counter Clerk of Dhenkanal Head Office, the recovery of amount of Rs. 40,000/- was illegal and for lack of supervision the cut in pension is also irrational.

8/8/2012
10/11/12

3. Respondents contested the case by filing a counter. The main contention of the Respondents is that the applicant while working as Deputy Postmaster, Dhenkanal H.O., failed in proper supervision in the discharge of K.V.P. for which the counter Assistant Sri P.K.Tripathy managed the double encashment of K.V.P. and, after examining his lapses, the applicant was proceeded under Rule-14 of the CCS (CCA) Rules, 1965 vide Annexure-A/1 dated 27.02.2004. They have averred that the applicant is actually involved in the defrauded amount of Rs. 8,59,955/- for his supervisory lapses. The applicant was placed under suspension w.e.f. 17.12.2003 and, subsequently, he retired from service on superannuation on 31.03.2004. On culmination of the disciplinary proceeding, the applicant was issued with the punishment order dated 28.12.2011 (Annexure-A/4). They have submitted that the duties of the applicant and that of the Counter Assistant are quite different and there is no question of dependency of the applicant on the Counter Assistant and hence the applicant is solely responsible for discharge of one KVP twice and for loss of Government money. The applicant neither kept the discharged KVP in his custody after its 1st discharge nor submitted the same to Postal Accounts Office for which Sri P.K.Tripathy got a scope to discharge the KVP twice. They have further submitted that due to the pendency of Departmental as well as Judicial Proceedings, pensionary benefits were not paid to the applicant. Although the Departmental Proceeding has been concluded, the Judicial Proceeding is still continuing for which pensionary benefits are still withheld. The

80/82/2012
10/11/17

supervisory lapses and the involvement of the applicant having been proved in the departmental proceeding, the Respondents have prayed for dismissal of this O.A.


4. Coming to the impugned order dated 28.12.2011 (Annexure-4) passed after the superannuation of the delinquent employee, it is evident that the applicant while functioning as DPM, Dhenkanal H.O. for the period 22.12.2001 to 13.11.2002 did not exercise check over the K.V.P. discharge list dated 22.10.2002 and 24.10.2002 of Dhenkanal H.O. prepared by Mr. P.K.Tripathy and also did not keep safe custody of the discharge certificates, as a result of which, there was double payment resulting pecuniary loss to the department. Under Article of charges (I) to (V), the competent authority has enumerated the negligence and misconduct committed by the present applicant. When the order does not suffer from any infirmity, no interference is called for. Had there been any procedural illegality or any action taken depriving the delinquent employee of the natural justice, the Tribunal could have interfered. There is no dispute about the fact that there was a huge loss to the department due to negligence and rather lack of proper supervision of the applicant. Though he has not personally misappropriated the amount but due to his lack of supervision, there was double payment and not keeping safe custody of the K.V.P. or I.V.P. cannot be termed as a slip of pen as by such conduct it resulted in double payment. In such backdrop imposing a punishment of cut of 15% in pension and recovery of Rs.


888 Gattinik
10/11/12

40,000/- towards the loss neither seems to be unfair nor arbitrary calling for interference.

5. Ld. Counsel for the applicant submitted that even though the applicant has retired since 2004 and the authorities are granting pension but have not released other retiral dues. Respondents are impressed to release all retiral dues deducting the amount of recovery of Rs. 40,000/-. Hence ordered.

6. The O.A. being devoid of merit is dismissed. Respondents are impressed to release, if any legal amount is still outstanding to be paid to the applicant, within a fortnight. No costs.


(M. SARANGI)
Member (Admn.)


(S.K.PATTNAIK)
Member (Judl.)

RK