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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 607/2014
this the 29th day of September, 2016

CORAM
HON'BLE SHRI R.C.MISRA, MEMBER(A)
HON'BLE SHRI S.K.PATTNAIK, MEMBER (J)

Akshay Kumar Jena aged about 42 years S/o Late Shri Gouranga Jena, Ex. GDS BPM of Hantuka BO in account with Basudevpur SO under Puri HO, permanent resident of At/PO Hantuka, Via Basudevpur, PS Chandanpur, Distirct Puri, Odisha.

...Applicant

By the Advocate : Shri N.R.Routray

-VERSUS-

1-Union of India represented through Secretary, Ministry of Communication and IT, Department of Post, Dak Bhawan, Sansad Marg, New Delhi – 110 016.

2-Director Postal Service (Hqrs.),O/O Chief Post Master General, At/PO Bhubaneswar, District Khurda – 751 001.

3-Senior Superintendent of Post Offices, Puri Division, At/PO Puri,District-Puri.
...Respondents

By the Advocate : Shri D.K.Mallick

O R D E R

R.C.MISRA, MEMBER(A) :

The applicant of this Original Application was working as Gramin Dak Sevak Branch Post Master (GDS BPM) at Hantuka BO in account with Basudevpur SO under Puri HO of the Department of Posts and has approached this Tribunal making mainly the following reliefs :

“8. a) To quash the inquiry report, order of punishment dtd. 27.07.2012 and order of rejection dtd. 28.05.2014.
b) And to direct the Respondents to reinstate the applicant in service with full back wages.”

2. The brief facts of the case are that while the applicant was working as GDS BPM, a Memorandum of Charges dated 15th July,

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2010 was issued to him by the Senior Superintendent of Post Offices, Puri, in which charges of mis-appropriation for an amount of Rs. 550/- were levelled against him. The exact allegation was that he accepted amount from one depositor for depositing the same in his R.D. account. He made necessary entries in the pass book but did not reflect the transaction in the Branch Office R.D. General nor incorporated the said amount in the Branch Office Account on the dates of deposit or on any subsequent dates, in violation of the rules. A Chargesheet was issued to him on the ground that he failed to maintain absolute integrity and devotion to duty as required under Rule 21 of the Gramin Dak Sevak (Conduct & Employment), Rules, 2001. On receiving the chargesheet, he denied the charges and the disciplinary authority appointed an inquiry officer to conduct an inquiry. During the conduct of inquiry as alleged by the applicant, both, the inquiry officer and the PO persuaded him to admit the charges leveled against him and that in that case he will be let off with a censure. The applicant wrote down what was dictated by the inquiry officer and signed the same. The inquiry officer submitted his inquiry report on 23.09.2011 before the disciplinary authority with a finding that the charged officer is guilty of all the charges. On receiving the inquiry report, the applicant filed his written defence on 15.03.2012 denying all the charges levelled against him, although, he alleges that the documents that he wanted from the respondents for preparation of his defence, were not supplied to him. Thereafter, the respondent No. 3 being the disciplinary authority passed the order of punishment dated 27th July, 2012 (Annex.A/8) and imposed the punishment of removal from service on the applicant considering the gravity of the offence committed by

him. Aggrieved with this order, applicant submitted his appeal petition on 1st October, 2013 to the respondent No. 2 making a prayer for setting aside the order of punishment. Since the appeal petition was not disposed of in time, the applicant had filed O.A. No. 50/2014 which was disposed of by this Tribunal vide order dated 10th March, 2014 directing the appellate authority to dispose of the appeal and communicate the decision to the applicant within a period of 90 days from the date of receipt of a copy of such order. Thereafter, the appellate authority has disposed of the appeal by an order dated 28th May, 2014 and rejected the same while confirming the order of punishment imposed by the disciplinary authority.

3. The respondents have filed a counter-affidavit in which they have mentioned the facts of this case and submitted that all opportunity has been provided to the applicant to defend his stand in the disciplinary proceedings. The applicant had intimated that there was no need of any defence assistant and he can alone face the oral inquiry instituted against him. The inquiry authority had held his sittings on three dates and then submitted its report with the findings that the charges are proved. The appeal that was filed before the appellate authority has also been disposed of by the appellate authority by a detailed order. The appellate authority having found no ground to allow the appeal, has rejected the same and confirmed the orders of punishment imposed by the disciplinary authority. The facts of the case as proved in the inquiry are that the applicant has failed to maintain the highest level of integrity in money matters and that his action has affected the image of the department adversely among the members of the public. The learned counsel for the applicant in his rejoinder, has submitted that the inquiry was

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concluded on the basis of alleged admission made by the applicant. The inquiry officer should have further inquired into the matter instead of relying upon the admission of guilt by the applicant.

4. On perusal of the orders of the appellate authority dated 28th May, 2014 in this case, which is quite detailed, we find that the appellate authority has noted that the applicant admitted the charges unequivocally in the 3rd sitting of inquiry held on 20th June, 2011 and made a written declaration to this effect. It is therefore a case where the applicant had himself admitted the guilt. With regard to the argument of the learned counsel for the applicant that he was made to sign this admission by the inquiry officer who assured him that he would be let off with a censure, we would like to say that this argument cannot be accepted. An employee who has not committed any act of misdemeanor or financial irregularity will never make an admission that he is guilty even if there is an assurance given to him that he will be let off with a minor punishment. He will rather deny the charges and fight his case tooth and nail. The appellate authority has also observed that misappropriation of the money of the depositors in Post Office Savings Bank is a serious offence as it creates a bad image of the department in the eye of general public. More serious is the manipulation of the office records by the applicant. On these grounds, the appellate authority has rejected the appeal petition of the applicant.

5. In a disciplinary proceedings the settled position of law is that the Tribunal is not supposed to sit in judgment over the findings of the inquiry authority and the disciplinary authority as well as the appellate authority unless there are grounds to

Ques.

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believe that there are procedural violation in the conduct of the proceedings or principles of natural justice have not been followed by the departmental authorities. In the present case, learned counsel for the applicant has failed to point-out any such deficiency or short-coming in the conduct of the disciplinary proceedings. There are also no procedural violations as far as the orders of the various authorities are concerned. The Tribunal is not supposed to make any reappraisal of the evidence or institute any further fact finding inquiry into the allegations. On the other hand, the Tribunal will only exercise powers of judicial review and see if there are grounds for interference on account of procedural failures or denial of natural justice to the delinquent employee. We do not find any such instances in this case.

6. In view of the discussions made above, we are not inclined to interfere with impugned orders challenged in this matter, and this Original Application being devoid of merit is dismissed with no order as to costs.


[S.K.Patnaik]
Member (J)


[R.C.Misra]
Member(A)

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