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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

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Date of order : 23.01.2001.

O.A.NO.281/98

Hanuman Ram Prajapat S/o Shri Bhera Ram Ji, aged about 38 years, R/o Vill. and Post Bajoli, Via Degana, District Nagour (Rajasthan), Ex. EDBPM, in the Post Office Bajoli, Dist.Nagour (Raj).

.....Applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, Parliament Street, New Delhi.
2. The Director, Postal Services (Rajasthan), Western Region, Jodhpur (Rajasthan)
3. Superintendent of Post Offices, Nagour Division, Nagaur (Raj).

.....Respondents.



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CORAM :

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN  
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr.S.K.Malik, Counsel for the applicant.

Mr.Vinit Mathur, Counsel for the respondents.

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PER HON'BLE MR.GOPAL SINGH :

In this application, under section 19 of the Administrative Tribunals Act, 1985, applicant, H.R.Prajapat, has prayed for setting aside the impugned order dated 20.3.98 (Annex.A/1) and order dated 21.8.98 (Annex.A/2) and further for a direction to the respondents to re-instate the applicant on the post of Extra Departmental Branch Post

Gopal S. Singh

Master, Bajoli, and make payments of pay and allowances with effect from 23.3.98, along with interest at the rate of 18% per annum, with all consequential benefits.

2. The applicant's case is that he was initially appointed on the post of Extra Departmental Branch Post Master ('EDBPM' for short), with effect from 11.10.79 and was posted at Bajoli Post Office in Nagaur District. The applicant was served with a Chargesheet dated 29.7.97 and on conclusion of the inquiry, the inquiry officer came to the conclusion that no case is made-out against the applicant. The disciplinary authority, however, expressed his dis-agreement with the findings of the inquiry officer. The dis-agreement of the disciplinary authority and the report of the inquiry officer, were sent to the applicant for his comments. The disciplinary authority after considering the representation of the applicant, imposed a penalty of removal from service upon the applicant, vide his orders dated 20.3.98 (Annex.A/1) . The appeal preferred by the applicant, was rejected by the appellate authority vide orders dated 21.8.98 (Annex.A/2). Feeling aggrieved, the applicant has filed this O.A.



3. Notices were issued to the respondents and they have filed their reply.

4. We had directed the learned counsel for the respondents to produce before the Tribunal, complete inquiry file of the applicant. The same has been produced before us. We have heard the learned counsel for the parties and perused the record of the case including the inquiry file carefully.

5. The brief facts leading to issue of the Chargesheet against the applicant are as under :

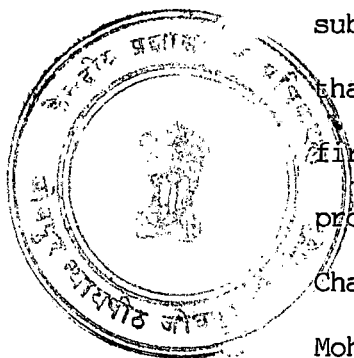
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6. One Shri Hira Lal S/o Shri Mohan Lal, had sent a Money Order of Rupees 1,400/- in December, 1995, from Surat to his father Shri Mohan Lal, at Charanwas Village. However, this Money Order was not paid to the payee. When the said Shri Hira Lal came on leave to his village and inquired about the Money Order from his father, he came to know that the Money Order was not paid to his father. On an inquiry from the Post Man concerned, it was revealed that the Money Order amount of Rupees 1,400/-, was utilised by the Post Man for his personal purposes and the Post Man had submitted the account of payment of the Money Order with forged signatures of the payee. A complaint was lodged by the residents of Charanwas village with the Superintendent, Post Offices, Nagaur and after making a preliminary inquiry, a chargesheet was served upon the applicant. In the preliminary inquiry, Shri Mohan Lal, the payee, had stated (Ex.S-1) that he had received the amount of the Money Order in time, but the signatures on M.O. (Ex.S-2) were of a different person. However, when a regular inquiry was instituted against the applicant, Shri Mohan Lal, gave a statement that he had received the amount in time and he has nothing to complaint about. The witness, who had also signed the acknowledgement of the Money Order, made a statement that Shri Mohan Lal signed the Money Order in his presence. It has, therefore, been contended by the applicant that since the payee has acknowledged the receipt of the amount in question in time and the same has been verified by a witness, this is a case of no evidence and the applicant is being harassed un-necessarily. The respondents, on the other side, have contended that the payee of the Money Order has changed his statement so as to shield the Post Man and, therefore, the story of Shri Mohan Lal, is an after thought. It is a fact that a complaint was made to the Superintendent of Post Offices, Nagaur, about non receipt of the said Money Order by the villagers. It has, therefore, been averred by the respondents that the applicant has no case and application deserves dismissal.

*(Signature)*



7. It is seen from the records that a complaint was made to the Superintendent of Post Offices, Nagaur, about non receipt of this Money Order, wherein, it was mentioned that the amount of the Money Order was paid to Shri Hira Lal along with interest on 25.7.96. This complaint was made by the residents of village Charanwas and on the basis of this complaint an inquiry was conducted. It has come-out during the inquiry that the acknowledgement slip of the Money Order was not signed by Shri Mohan Lal. In the initial statement, Shri Mohan Lal, has stated that he had asked some other person to sign the Money Order for him, as he was not well. But in the subsequent statement dated 21.11.97, Shri Mohan Lal stated that signatures on M.O. receipt were his own. Such an action was against rule and no Post Man would have allowed any other person to sign the Money Order on behalf of Shri Mohan Lal. Thus, we are of the view that the subsequent statement given by Shri Mohan Lal, wherein, he had stated that he had received the money in time, cannot be relied-upon. We are firmly of the view that Shri Mohan Lal gave the statement only to protect the applicant. The statement given by the witness Shri Nemi Chand Narayania, is also not dependable as he has stated that Shri Mohan Lal had signed the Money Order in his presence. As a matter of fact, Shri Mohan Lal, had never signed the Money Order. Thus, the statement given by the witness is also concocted. The contention of the applicant that this is a case of no evidence is, therefore, not tenable. We are firmly of the view that facts and circumstances of the case, suggests that this is a case where sufficient evidence exists for taking a disciplinary action against the applicant. We are well aware that Courts or the Tribunals cannot interfere in the process of disciplinary cases, unless the cases is of no evidence, there are procedural lapses or the penalty imposed is disproportionate to the alleged mis-conduct. As has been discussed above, this is a case where the applicant has mis-appropriated rupees



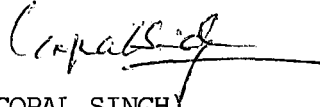
*Gopal Singh*


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1,400/- for about one and a half year and when this came to light every possible action was taken by the applicant to hush up the matter. In the process, the applicant has also submitted forged accounts to his superior authorities indicating the payment of the Money Order whereas the payment had not been made at that point of time. In such circumstances, we are of the view that the penalty of removal from service, imposed upon the applicant, is not harsh or disproportionate to the alleged mis-conduct.

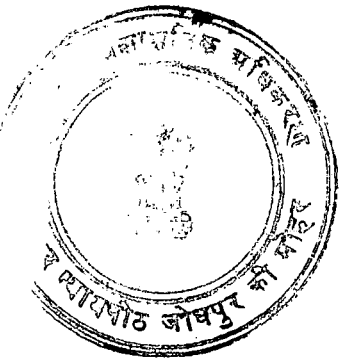
8. In the light of the above discussions, we have no option but to pass the order as under :-

The Application is dismissed. The parties are left to bear their own cost.

  
(GOPAL SINGH)  
Adm. Member

  
(JUSTICE B.S. RAIKOTE)  
Vice Chairman

cvr.



Recd  
Graham  
20/1/2007

R/K  
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20/1

Part II and IM destroyed  
in my presence on 20.1.02  
under the supervision of  
section officer as per  
order dated 19/12/02

Section officer (Records)

