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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

O.A. No. 240/99

M.A. No. 146/99

Date of order: 29/6/2001

Heer Singh son of Shri Akhey Singh aged about 53 years, resident of Vill. and Post Debawas, Via Manawala, Distt. Jalore, last employed on the post of EDBPM, Debawa via Manawala, Distt. Jalore.

Applicant.

VERSUS

1. Union of India through Secretary to Govt. of India, Min. of Communication, Department of Post, Dak Bhawan, New Delhi.
2. Superintendent of Post Offices, Sirohi Division, Sirohi.
3. The Director Postal Services, Rajasthan Western Region Jodhpur, Office of PMG Rajasthan Western Region Jodhpur.



Respondents.

Mr. J.K. Kaushik, Counsel for the Applicant.  
Mr. Vinit Mathur, Counsel for the Respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judl. Member.  
Hon'ble Mr. A.P. Nagrath, Adm. Member.

ORDER

( Per Hon'ble Mr. A.P. Nagrath, Adm. Member )

The applicant in this O.A. is aggrieved by the order dated 16.01.1998 (Annexure A/2) dismissing him from service

( Contd. 2.)

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and the order dated 03.08.1998 (Annexure A/3) passed by the Appellate Authority maintaining the same punishment. He has made a prayer that these orders may be declared illegal and quashed and that the applicant may be allowed all consequential benefits.

2. Misc. Application has been filed with a prayer for condonation of delay in filing the original application. The delay is only of 3 days. In view of the reasons advanced on behalf of the applicant, we accept this application and condone the delay, even though the respondents have tried to oppose this prayer for condonation. Misc. Application stands disposed of accordingly.



3. Facts of the case, as per the applicant, are that he was appointed as Extra Departmental Branch Post Master at Debawas in the year 1971. On 06.08.1997, when he was on duty, one Shri Bhima Ram deposited an amount of Rs. 1500/- in his Saving Bank Account No. 795405. The applicant submits that while he completed the transaction, he got a message that his mother-in-law had expired at Sandwaria and he became perturbed. He made the entry of cash in pass book, S B Journal but missed to put the cash in the cash box and also omitted to take this amount in the Branch Office daily account. On 03.09.1997 Shri C.L. Arya, Assistant Superintendent of Post Offices came on inspection and found that though the amount of Rs. 1500/- was entered in the Journal but had not been taken into account. The applicant claims that he searched for this amount and found the same in the specimen signature register. He deposited an amount of Rs. 2160 towards the principle amount and the interest, which he claims was done by him under threat from Shri N.L. Phulwari ASP. His statement was recorded on 26.09.1997 in the preliminary inquiry. He was put off from duty on 08.09.1997 and was issued with a charge

( Contd. 3.)

Sheet under Rule 8 of EDA (Service and Conduct) Rules, 1964 vide memo dated 22.10.1997 alleging violation of Rules 17 of the said rules and an oral inquiry was conducted by one Shri J.S. Gurjar OS. A copy of the inquiry report was supplied to him vide letter dated 23.12.1997 and he submitted a detailed representation against the findings of the Inquiry Officer vide letter dated 05.01.1998. The disciplinary authority imposed the punishment of dismissal from service vide impugned order dated 16.01.1998 (Annex. A/2). His appeal against this penalty has been rejected by the Appellate Authority and communication vide impugned order dated 03.08.1998 (Annexure A/3). The applicant claims that there was no misappropriation of any amount and he left the cash in specimen signature register inadvertently in perturbed state of mind. He contends that non acceptance of this fact has resulted into impugned orders which are stated to be illegal and arbitrary. In support of his stand, the applicant has stated that even after this dismissal he was engaged as a substitute on the same post during the period from 03.08.1998 to 31.08.1998 which shows that his integrity was beyond doubt. It is further urged by the applicant that while passing the impugned orders there has been no application of mind.

4. The respondents, in their written reply, have stated that the applicant has committed misappropriation of Govt. Money in S.B. Account No. 795405 by not taking the amount in the Government Accounts. The charges levelled against the applicant were held proved by the Inquiry Officer and after considering the applicant's representation dated 05.01.1998 the punishment of order dismissal from service was passed vide letter dated 16.01.1998. The appeal of the applicant was duly considered but was rejected vide order



( Contd. 4.)



dated 30.07.1998. The respondents submit that the charge of misappropriation against the applicant has been fully established. The fact that the cash was not deposited in the Government Account has been accepted by the applicant and he further voluntarily credited the same in the Govt. Account after the offence was detected in inspection, that he had misappropriated the amount of Rs. 1500/-. Respondents contend that there are no procedural infirmities in the disciplinary proceedings. The applicant was provided with all opportunities under the rules to defend his case. The disciplinary and the appellate authority have passed detailed speaking orders taking into consideration all the contentions raised by the applicant.



5. Heard the learned Counsel for the parties and perused the entire record.

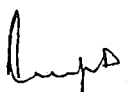
6. Learned Counsel for the applicant argued that merely non-accounting of an amount does not ipso facto mean misappropriation of Government Money. The applicant has a clean records of 27 years of service, which has not been taken into consideration while imposing the extreme penalty of dismissal. The learned Counsel states that the applicant was in a disturbed state of mind on the relevant day and in that mental condition, he failed to deposit the cash in Government Account. The plea taken by the learned Counsel is that the penalty imposed on the applicant is grossly disproportionate to the alleged misconduct.


7. The scope of judicial review in disciplinary proceeding is extremely narrow and limited as has been observed by the Hon'ble the Supreme Court in a catena of cases. However, if the findings of guilt is on no evidence or if the conclusion drawn is so perverse that a normal human being would not arrive at in relation to the available

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evidence, then only findings would be amenable to judicial scrutiny. In the instant case there is no reason for us to re-appreciate the evidence as the charge of not depositing the amount of Rs. 1500/- in Government Account has been conclusively established and also accepted by the applicant, though the applicant has pleaded that this happened because of his disturbed state of mind. This plea has not been accepted by the disciplinary as also the Appellate Authorities. We have no reason for taking any other view of the matter, more so when the amount was deposited on 06.08.1997 and it remained unaccounted for till the same was deposited in the Govt. Account on 10.09.1997. The fact that the applicant was engaged as a substitute for few days, after his dismissal can have no bearing on the disciplinary case which already stood concluded. The applicant's plea that he had an unblemished record of 27 years can also not come to his rescue. His offence has been established in this case and he has been punished after following due procedure, as prescribed under law. In so far as the quantum of punishment is concerned we are not inclined to interfere as in the facts and circumstances of the case it cannot be said to be so disproportionate so as to disturb the conscience of a normal person so as to call for a review by the Tribunal. We do not find any infirmity in the action of the respondents and the case of the applicant is devoid of any merits and is liable to be dismissed.

8. We therefore dismiss this O.A. as devoid of any merits. Parties are left to bear their own cost.

  
(A.P. Nagrath)  
Adm. Member

  
(A.K. Misra)  
Judl. Member.

nlk.



R/copy  
on 5/7  
C. B.

R/copy  
V. J.  
5/7

Part II and III destroyed  
in my presence on 2-4-07  
under the supervision of  
section officer ( ) as per  
order dated 1-9-22-07

Section officer (Record)

