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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 402
M.A. No. 216

1999
1999

DATE OF DECISION 05.09.2001

Shanti Lal Bhatt Petitioner

Mr. Kamal Dave Advocate for the Petitioner (s)

Versus

U.O.I. & Ors. Respondent

Mr. Vinit Mathur, for Respondents Advocate for the Respondent (s)
No. 1 to 3

None present for respondent No.4



CORAM :

The Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

The Hon'ble Mr. A.P. Nagrath, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? No
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? Yes
4. Whether it needs to be circulated to other Benches of the Tribunal ? Yes

(Signature)
(A.P. Nagrath)
Admn. Member

(Signature)
(Justice B.S. Raikote)
Vice Chairman.

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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

Date of Order : 05.09.2001

O.A. No. 402/1999.

with

M.A. No. 216/1999.

Shanti Lal Bhatt S/o Shri Radah Vallabh Bhatt,
aged about 51 years, resident of Awasthiyon-ka-
Bas Sojat City, District Pali, 306104; Official
Address: Presently posted as Post man Sojat City,
Pali.

APPLICANT...

VERSUS

1. The Union of India through, the Secretary,
Ministry of Post and Telegraph, Department of
Posts, Dak Bhawan, New Delhi.
2. The Superintendent Post Office, Pali Division,
Pali Marwar.
3. The Assistant Superintendent Post Office, Sub
Division, Pali Marwar.
4. Sh. M.L. Singhadiya, Assistant Superintendent
Post Office, Sub Division Pali, Pali Marwar.

RESPONDENTS ...

Mr. Kamal Dave, counsel for the applicant.
Mr. Vinit Mathur, counsel for respondent No. 1 to 3.
None present for respondent No. 4.

CORAM

Hon'ble Mr. Justice B. S. Raikote, Vice Chairman.
Hon'ble Mr. A. P. Nagrath, Administrative Member.

ORDER

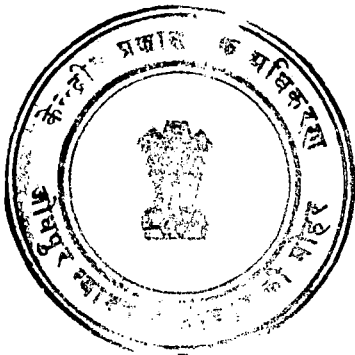
(per Hon'ble Mr. A. P. Nagrath)

The applicant has prayed for the following
reliefs in this application:-

- (a) That by appropriate order or direction the
order of punishment dated 29/31.12.1997
and order dated 28.8.1998-rejecting
applicant's appeal may kindly be quashed
and set aside allowing all the real
benefits as if no charge sheet was ever
served.

(b) Any other appropriate order or direction which may be considered just and proper in the light of above, may kindly be issued in favour of the applicant.

2. A charge sheet under Rule 16 of the CCS(Conduct) Rules, 1964, was issued to the applicant on 23.09.1997. There were 3 charges in memorandum which are enumerated below :-



1) While working as Sub Post Master Sojat City from 16.01.1997 to June 1997, the applicant assisted his son Shri Bhanu Prakash Bhatta who was working as an agent in Guru Shikhar Savings and Finance Company Ltd. Sojat City a private company, and made entries in his own handwriting in the passbooks of the depositors of the said company. Thus, Shri Shanti Lal violated CCS (Conduct) Rules 1964 Rule 15(1) D, 15(3) and 15(8).

2) That on 26.03.1997, he entered into an agreement with Shri Satya Dev Sharma, Director Guru Shikhar Savings Finance Company Ltd. and purchased property in his own name and in the name of his family members, in Village Pipliya Kalla Tehsil Raipur, Land Khasra No. 220, Rakba No. 32, and did not give any intimation to the competent Postal authority about this transaction, thus, contravening the provisions of Rules 18(3), 18(25) (4), 18(A) and 16(2) of CCS (Conduct) Rules, 1964.

3) That on 28.01.1997, he himself filled up the pay in slip to deposit Rs. 5520 on behalf of the

depositors and thus he did not discharged his duties in a responsible manner and violated provision of Rules 15(11) and Rule 16(5) of the CCS(Conduct) Rules, 1964.

In view of these charges, the applicant is alleged to have violate Rule 3(1) (ii) and 3(1) (iii) of CCS (Conduct) Rules, 1964.

3. The applicant submits that by letter dated 07.10.1997, he sought for the copy of relevant conduct Rules and also asked for other documents relied upon by the Disciplinary authority. He was advised by respondent No. 3 to obtain the Rules from the market and for inspection of documents, he was asked to visit Pali Head Office at his own expenses and own leave. The applicant replied to the charge sheet on 25.11.1997 stating that he had not violated any rule of the CCS (Conduct) Rules 1964. In his reply, he denied having made any entries in the passbooks of Guru Shikhar Savings and Finance Company Ltd. and also mentioned that his son was only an employee of the said company and not holding any managerial post. The said company was also said to be not in any insurance business. In respect of the charge of acquiring property, applicant clarified in his reply that though he entered into a purchase agreement but the said deed was never acted upon. Regarding the third charge of filling up of the pay-in-slip the applicant admits that he did fill up the same but he termed this act as one ^{on} humanitarian ground and does not constitute any mis conduct.



[Signature]

4. After considering his reply, the disciplinary authority imposed upon him a penalty of reducing his pay by one stage for one year. The applicant submitted an appeal on 12.2.1998 which was rejected by the appellate authority vide order dated 28.8.98. Aggrieved with these orders, the applicant has come before us for seeking relief.

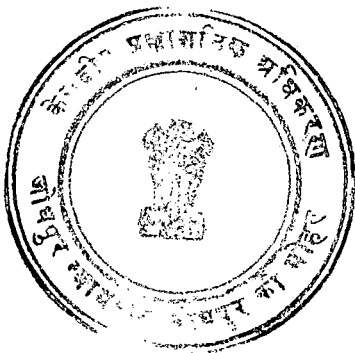
5. MA has been filed by the applicant seeking condonation of delay in filing this application. It has been stated that after discussing with his counsel, the applicant took time in collecting papers from his department and in the circumstances, the delay was caused in filing of the OA which is said to be un-intentional. Another ground taken is that the prayer of the applicant will not affect the right of any other person.



6. The respondents have opposed the prayer of the applicant for condonation of delay on the ground that no convincing reasons have been advanced for not approaching this Tribunal within time. Since, the applicant himself was not vigilant regarding the right of redressal of his grievance, he cannot be now claim any condonation of delay for which he himself requested.

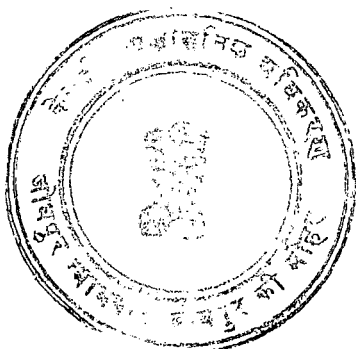
7. On merits, it has been stated by the respondents in reply that the documents asked for by the applicant, were obtained by him on 22.11.1999 and the same were examined by the applicant. It has been submitted by the respondents that full opportunity enjoined under the Rules has been given.

given to the applicant and there is no intimacy in the departmental proceedings. The punishment has been imposed after considering the offence of the applicant and it has been established that he actually violated the CCS(Conduct) Rules, 1964 for which he was charged. In respect of purchase of property the respondents have stated that one Ekarar Nama was executed between Shri Satya Dev, Savings Director, Guru Shikhar/Finance Company Ltd. Sojat and the members of the family of the applicant. The applicant also signed the Ekarar Nama. The cost of the land was stated to be Rs. 3.2 Lacs, which were to be adjusted from the deposits available with the said Guru Shikhar, Savings Finance Company Ltd. thus, This/established the transaction for acquisition of land was actually entered into and the applicant failed to intimate to the department about this transaction and thus he is stated to have violated the CCS(Conduct) Rules, 1964.



8. At the time of oral arguments, learned counsel for the applicant Shri Kamal Dave took us through the relevant provisions of the conduct Rules and stated some of the Rules like 15(8), 15(11), 16(5), 18(A), 18(25) (4) etc. do not even exist in the Rules. While discussing the charges he stressed that in respect of the charge No.1, no offence has been made out as the applicant did not make any entry in the pass books of the depositors of Guru Shikhar Savings Finance Company Ltd.. His plea

was that without establishing the authenticity of the handwriting in the passbooks, the respondents have proceeded against the applicant and punished him on that count. In respect of charge No.3, the learned counsel stated that it was a fact that pay-in-slip was filled in by the applicant but then this was only on humanitarian considerations and cannot be considered as an act violative of conduct Rules. Regarding the second charge of not intimating about the transaction in respect of the property to the department, the learned counsel stated that while Ekararnama was entered into, but the actual transfer of property in the name of the applicant or his family members did not take place. Thus, he contended that there was no violation of Conduct Rules as that situation would have arisen if the Ekararnama resulted into actual purchase of property. The present case thus remained only in the state of deed and nothing further.

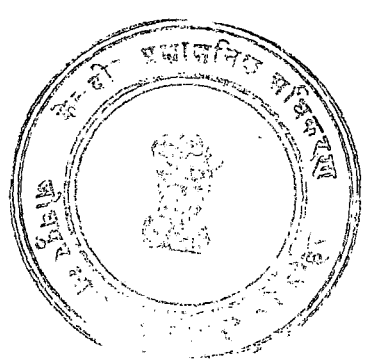


9. Learned counsel for the respondents apart from reiterating the grounds taken in the written on reply/merits of the case, strongly opposed this application on the grounds of delay. The learned counsel stressed that no cogent or convincing reasons have been advanced by the applicant which could merit condonation of delay. The learned counsel also submitted that by signing the Ekararnama for purchase of property without prior intimation to the department committed an act of violating the Service conduct Rule.

10. We have considered the rival contentions. The impugned orders are dated 29.12.1997 and 28.8.98. This application has been filed in December 1999 i.e. one year four months after the date of the order of the appellate authority. Section 21(1) (a) provides us as follows :-

- " 1) A Tribunal shall not admit an application-
- a) in a case where a final order such as is mentioned in clause (a) of sub-Section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made."

There is a mandate on the Tribunal not to admit any application if the same is not filed within one year from the date on which such final order has been made. Final order in the instant case has been made on 28.08.1998. Grounds stated in the application for condonation of delay are rather vague and we do not find the same convincing at all. One year period for collecting relevant documents for framing an application as provided under the act, is in itself sufficient for any person, who wants to agitate his case before any court or Tribunal. Apparently the applicant was not vigilant enough in his own case and the delay on his part has not been explained properly. We are, therefore, of the view that this application merits rejection on the ground of limitation. Thus, we reject the prayer made in MA for condonation of delay, MA stand disposed of accordingly

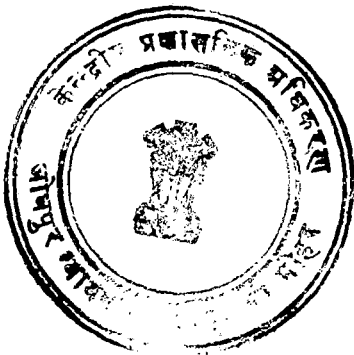


11. We would also like to discuss the merits of this case. In so far as charge No.1 is concerned,

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we find that respondents have failed to effectively counter the denial of the applicant that the entries in the passbooks of Guru Shikhar Savings Finance Company Ltd. were made by him. There is no semblance of any effort on the part of the respondents to prove this charge. They have merely taken a stand that the entries were, in fact, made by the applicant. This in our view is not a correct approach and we are convinced that the respondents have not been able to establish this charge against the applicant.

12. Regarding charge No. 3 of filling up the pay-in-slip, we are satisfied with the plea of the applicant that he did the same on account of humanitarian consideration. We do not consider this act as violation of any of the Conduct Rules. The learned counsel for the respondents have not been able to draw our attention to any Rule which can make this Act to be construed as having violated the Conduct Rules.



13. In respect of the charge of not informing the department before entering into the transactions for purchase of property, we consider it relevant to reproduce the related Rules provision as follows :-

"Rule 18(2) No Government servant shall, except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family:

Provided that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealings with him.

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The Rule Provision makes it clear that if any Government servant desires to acquire or dispose of any immovable property either in his own name or in the name of any member of his family he has to first inform the prescribed authority about the said transaction. The significance of the previous knowledge of the prescribed authority, has to be understood in its correct perspective. The plea of the learned counsel for the applicant is that in this case the Ekararnama did not result in actual purchase. Ekararnama is a step towards purchase of property and it has been admitted by the applicant that he did sign the Ekararnama. Obviously he did so without having informed the department of his intention to acquire property. The fact that finally, the purchase was not made is not relevant as far as the mandate in this Rule is concerned. The moment, the applicant signed the Ekararnama for purchase of property he violated this provision of the Conduct Rules. We find from the charge sheet that he is alleged to have violated alongwith other ^{Rules,} Rule 18(3) of the Conduct Rules, and that 18(2) has not been specifically stated in the charge sheet, but the charge sheet also says that in respect of purchase of property he had not given any previous information to the prescribed postal authority. We do find that the department has been negligent while referring to the rules of CCS(Conduct) Rules in respect of this and other charges but the statement of allegation states the facts correctly. In our view, the applicant cannot be allowed to take advantage of this omission on the part of the department as the substance of the charge stands proved against him.



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14. From all the discussion aforesaid, we are of the view, that out of the 3 charges against the applicant only charge No.2 stands established. Thus, the penalty of ~~the~~ reduction of pay by one stage does not call for any interference. This application is liable to be dismissed both on merits and on account of delay on the part of the applicant in moving this application.

15. We, therefore dismiss this application on merits as also on limitation. No, order as to costs.



hups 5/9/2001
(A.P. NAGRATH)
Admn. Member

RN
(JUSTICE B.S. RAIKOTE)
Vice Chairman

P./C.