

76

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Decision : 10.07.2002

O.A. No. 205/2001.

S. M. Qureshi S/o Shri Abdula Khan, aged about 42 years, Postal Assistant, Head Post Office, Sri Ganganagar, (Raj.).

... APPLICANT.

v e r s u s

1. Union of India, through Secretary to the Government of India, Department of Post Ministry of Communication, Dak Bhawan, New Delhi-110 011.
2. The Member (Personal), Postal Services Board, Dak Bhawan, Sansad Marg, New Delhi-110011.
3. The Director, Postal Services Office of the Post Master, General, Rajasthan Western Region, Jodhpur, 342003 (Raj.)
4. The Superintendent, Post Offices, Sri Ganganagar Division, Sri Ganganagar-335001 (Raj.)

... RESPONDENTS.

Shri M. K. Trivedi, counsel for the applicant.
Shri Vinit Mathur, counsel for the respondents.

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Hon'ble Mr. Justice O. P. Garg, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :
(per Hon'ble Mr. Justice O. P. Garg)

The applicant, S. M. Qureshi, was at the relevant time posted as Postal Assistant in Sri-Ganganagar Division. The Disciplinary Proceedings

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under Rule 14 of CCS(CCA) Rules, 1965, were initiated against him on the following charges :-

" Article I:-

While working as SPM, Muklawa SO from 6.9.93 to 15.3.94, Shri S.M. Qureshi failed to open-closs BO bags of DAbla Johtanawal 16 P.S. on 12.3.94 failed to receive and close issue delivery of regd/parcel-mails of & dated 12.3.94 to keep seal/stamps/key of Muklawa PO in custody and left Headquarters without proper permission, resulting closure of SO on 12.3.94 thereby violating the provisions of rule 2,64,67 of P & T Man. Vol. VI Part III, rule 56, 95, 157, 21(3) of P& T Man Vol. VI Part I and rule 62, 152, 153 of P& T Man. Vol. III and rule 3 (1) (i), (ii) & (iii) of CCS (Conduct) Rules, 1964.

Article II:-

While working in the aforesaid office in the aforesaid capacity, Shri S. M. Qureshi failed to maintain/prepare records as mentioned in original charge sheet thereby violating the provisions of rule 3 (1) (i), (ii) & (iii) of CCS(Conduct) Rules, 1964.

Article III :-

While working in the aforesaid office in the aforesaid capacity, Shri S. M. Qureshi retained excess cash in balance ranging 11,623.95 to 22,511.60 against the maximum authorise limit of Rs. 3000/- by showing fictitious liabilities and failed to submit ECB memos thereby violating the provisions of rule 102 of P&T Man. Vol. VI part III DG circular No.10-27/92-Investigation dated 2.1.92 and rule 3(1) (i) (ii) & (iii) of CCS (Conduct) Rules, 1964."

The Enquiry Officer after due enquiry came to the conclusion that all the ~~the~~ above three charges were stood proved against the applicant. The Disciplinary Authority agreeing with the report of Enquiry Officer and taking into consideration the facts and circumstances of the case passed an order dated 30.03.1995, dismissing the applicant from service.

[Signature]

The applicant preferred an appeal before the competent authority. The appellate Authority ~~withholding~~ the findings of the Disciplinary Authority with regard to the ~~proof~~ of the charges, substituted the punishment of dismissal from service by reducing the applicant pay by five stages from Rs. 1330/- in the scale of Rs. 975-1660 for a period of five years with cumulative effect. The applicant preferred a Revision Application, which was rejected. He thereafter submitted a Memorial to the President of India, which too has been dismissed by order dated 30.09.1998 (Annexure A-12).

2. It is in these circumstances, that the applicant has come before this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, with the prayer that the order of punishment passed against him be quashed.

3. A detailed reply has been filed on behalf of the respondent department. It is asserted that the Appellate Authority has already taken a lenient view in the matter and since the allegations against the applicant were substantiated on enquiry, the order of punishment cannot be faulted on any ground.

4. Heard Shri M. K. Trivedi, Learned Counsel for the applicant, as well as Shri Vinit Mathur, Learned counsel for the respondents.

[Signature]

5. At the outset, it may be mentioned that this Tribunal has no jurisdiction to reappraise the findings for substituting its own findings in the matters of departmental enquiry. The law on the point is well settled that this Tribunal cannot reappreciate, create evidence and substitute its finding to arrive at the conclusion that the charge has not been proved. The consistent view of the Apex Court on the point is to be found in the decisions of State of Tamil Nadu vs. T. V. Venugopalan, (1994) 6 SCC 302, Union of India vs. Upendra Singh, (1994) 3 SCC 357, Government of Tamil Nadu vs. A. Rajapandian, (1995) 1 SCC 216, Union of India vs. B. S. Chaturvedi, (1995) 6 SCC 749, B. C. Chaturvedi vs. Union of India, (1995) 8 JT (SC) 65, Tamil Nadu and Another vs. S. Subramaniam, AIR 1996 SC 1232, Director General of Police and Ors. vs. Jani Basha, 1999 AIR SCW 4802 and Syed Rahimuddin vs. Director General, C.S.I.R. and Others, 2001 AIR SCW 2388. In view of the above decisions, we are not inclined to ~~not~~ enter into the factual aspect of the controversy raised on behalf of the applicant. The submission of the learned counsel for the applicant that the order of punishment has been passed only for the charge that the applicant had absented on one particular date without information and prior permission is not correct. A reading of the report of enquiry, order passed by the Disciplinary Authority and the subsequent orders of the Appellate as well as Revisional Authorities would clearly go to show that the applicant was found guilty of all the three charges.



6. Learned counsel for the applicant further submitted that the modified penalty inflicted upon the applicant is too harsh and cannot be said to be commensurate to the established guilt of the applicant. We find it difficult to agree with the Learned counsel for the applicant. One of the established charge against the applicant was that he has retained excess cash in balance ranging from 11,623.95 to 22,511.60 against the maximum authorise limit of Rs. 3,000/- by showing fictitious liabilities and failed to submit ECB memos. This charge in effect has adverse reflection on the integrity of the applicant. In view of the serious charge that the applicant has violated the provisions of Rule 102 of P&T Man. Vol. VI part III DG circular No. 10-27/92- Investigation dated 2.1.92 and rule 3(1)(i)(ii) &(iii) of CCS(Conduct) Rules, 1964, we find that the modified penalty of reduction of pay by five stages for a period of five years with cumulative effect cannot said to be harsh or proportionate to the established charge against the applicant. The departmental authorities have taken a rational view of the matter in inflicting punishment upon the applicant. It is not a case which warrants our interference.

7. The OA turns out to be meritless and is accordingly dismissed without any order as to costs.

Gopal Singh
(GOPAL SINGH)
MEMBER (A)

CJ
(JUSTICE O. P. GARG)
VICE CHAIRMAN

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Part II and III destroyed
in my presence on 24.7.02
under the supervision of
section officer () as per
order dated 14.1.02

Section officer (Record)