

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.479/2012

Jodhpur this the 7th day of January, 2014

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial),
Hon'ble Ms. Meenakshi Hooja, Member (Administrative)

Amritpal Singh s/o Shri Ajayab Singh, aged about 47 years, s/o Village and Post Office-35 BB, Tehsil Padampur, Distt. Sriganganagar, last employed on the post of GDSBPM, 35, BB, Gajsinghpur Branch Post Office, Distt. Sriganganagar

.....Applicant

By Advocate : Shri J.K.Mishra

Versus

1. Union of India through Secretary to the government of India, Ministry of Communication and Info Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Postmaster General, Western Region, Rajasthan, Jodhpur
3. The Superintendent of Post Offices, Sriganganagar Division, Sriganganagar-335001 (Raj.)

.....Respondents

By Advocate : Ms.K. Parveen

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

The present application has been filed by the applicant against the order of penalty dated 23.10.2009 (Ann.A/1) and order on revision petition dated 8.5.2012 (Ann.A/2) and has prayed for the following reliefs:

(i) That impugned order dt. 23.10.2009 (Annexure A-1), imposing penalty of dismissal from service and order dated 8.5.2012 (Annexure A/2), passed by the revising authority, rejecting the revision petition, may be declared illegal and the same may be quashed. The applicant may be allowed all consequential

benefits as if none of the impugned orders were ever in existence.

- (ii) That the respondents may be directed to produce the relevant record/case file of disciplinary proceedings/file containing noting leading to decision to pass the impugned order at the time of hearing of this case, for perusal by this Hon'ble Tribunal so as to unfold the true facts.
- (iii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded."

2. Short facts of the case, as stated by the applicant, are that the applicant was initially appointed on 3.10.1985 to the post of Gramin Dak Sevak Branch Post Master (erstwhile EDBPM). While working as GDSBPM at 35 BB , Gajsinghpura, Distt. Sriganganagar, he was issued a chargesheet under Rule 10 of Gramin Dak Sewak (Conduct and Employment) Rules vide memo dated 20.11.2008. It has been alleged that the applicant received the deposit amount from depositors and returned their respective pass books after making entries of the deposits, but he did not make entries in the Saving Bank journal and thus did not take the amount in the Government account. He deposited the said amount of Rs. 550/- in Gajsinghpura Sub post Office on his own and in this way, it is alleged that he took the amount in his personal use and misappropriated the same. The applicant submitted a detailed statement of defence denying allegation regarding temporary misappropriation of Rs. 550/- and submitted explanation for the delay in taking the amount of deposit into account. Inquiry was held and the applicant was supplied a copy of the inquiry report and was asked to submit his representation against the findings of the Inquiry Officer, but he could not submit the same on time. Thereafter, the Disciplinary Authority imposed penalty of dismissal from service vide order dated 23.10.2009 (Ann.A/1).

The applicant filed a revision petition and after examining the revision petition, the same was rejected by the respondent No.2. Aggrieved with the penalty imposed and rejection of the revision petition, the applicant has filed the present OA claiming for the reliefs as stated in para-1 above.

3. The respondents by way of reply submitted that during the year 2007, the applicant was found involved in the misappropriation of an amount of Rs. 550/- deposited by the depositors in the Savings Bank Accounts on different dates. Due to this, the applicant was served with a chargesheet and an inquiry was held. The Inquiry Officer submitted report and all the charges leveled against the applicant were found proved. Copy of the inquiry report was sent to the applicant for submitting written defence, but he failed to submit his written defence. Therefore, in the absence of defence representation, ex-parte decision was taken and the applicant was imposed penalty of removal from service. Thereafter the applicant filed a revision petition after a delay of about 16 months. For condoning the delay, the applicant has submitted a medical certificate for 480 days, which was issued by a Vaidya. The Revising Authority did not condone the delay in filing the revision petition and confirmed the penalty imposed on the applicant. The respondents have further submitted that the act of the applicant of not accounting the amount tendered for deposit given by the depositors for depositing into their respective amount on various dates clearly reflects his intention of misappropriation. Hence, no infirmity can be found in the disciplinary proceedings carried out against the applicant.

4. The applicant has filed rejoinder reiterating the submissions made in the OA.

5. Heard counsel for parties and perused the material available on record. The counsel for the applicant contended that the defence version of the applicant has not been considered and the charges have been held as proved without considering his defence, therefore, the penalty orders cannot be sustained in law. He further contended that mere allegations cannot be treated as misconduct and the Disciplinary Authority has acted on the basis of findings of the Inquiry Officer in a mechanical way and held the charges as proved without substantiating the same by proof. The learned counsel also contended that the Revising Authority did not apply its mind and decided the revision petition in a mechanical way.

6. Per contra, counsel for the respondents contended that the respondents conducted exhaustive disciplinary proceedings which covered each and every aspect and due time was given to the applicant for defending the same. The applicant did not submit his representation to the inquiry report, which was his own fault. The order dated 8.5.2012 was passed after considering each and every point raised by the applicant in his review petition. The Revising Authority not only considered the revision petition on the point of delay, but also considered it on merit and decided the same accordingly. Therefore, the penalty of removal from service imposed on the applicant cannot be said to be unjustified.

7. We have considered the contention of both the parties. After going through the pleadings and contentions of parties, we noticed that there is no violation of the principles of natural justice. The relevant documents demanded by the applicant were supplied to him in time. The Revising Authority has disposed of the revision petition of the applicant by a speaking order after dealing all the points raised by the applicant in his revision

petition like- supply of copies of listed documents, not giving copy of written statement and the point of condoning the delay and the plea of no misappropriation. Therefore, we find no ground to interfere in the order of imposition of penalty upon the applicant and accordingly, the OA being devoid of merit fails and the same is hereby dismissed with no order as to costs.



(MEENAKSHI HOOJA)
Administrative Member



(JUSTICE K.C.JOSHI)
Judicial Member

R/