

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 470 OF 2003

MONDAY THIS THE 9th DAY OF JANUARY, 2006

CORAM :

HON'BLE Mrs .SATHI NAIR, VICE CHAIRMAN
HON'BLE Mr. K.V.SACHIDANANDAN, JUDICIAL MEMBER

R.Felsi
Ex-Postal Assistant
Neyyattinkara HO
Residing at : Rajendramandiram
Kamukincode, Kodungavilap PO
Aralumoodu, Trivandrum District : Applicant

(By Advocate Mr. M.V.Somarajan)

Versus

1. The Senior Superintendent of Post Offices
Ernakulam Division, Kochi – 682 011
2. The Assistant Postmaster General (Vig)
Office of the Chief Postmaster General
Kerala Circle, Trivandrum – 33
3. The Director of Postal Services
Southern Region
Office of Chief Postmaster General
Kerala Circle, Trivandrum – 33
4. The Chief Postmaster General
Kerala Circle, Trivandrum – 33
5. Union of India represented by Secretary
Ministry of Communications,
New Delhi : Respondents

(By Advocate Mr. T.P.M.Ibrahim Khan, SCGSC)

The application having been heard on 20.12.2005, the
Tribunal on 9.01.2006, delivered the following :

ORDER

HON'BLE Mrs. SATHI NAIR, VICE CHAIRMAN

The applicant while working as a Sub Postmaster, Kuttichal
Post Office was placed under suspension on 18.03.1996 in

contemplation of enquiry under Rule 14 of CCS (CCA) Rules, 1965. A charge memo, Annexure A-1 dated 14.07.1997 was served on the applicant containing two articles of charges. The above inquiry culminated with the submission of the inquiry report at Annexure A-2 dated 04.06.1998. The Disciplinary Authority agreed with the above inquiry report and dismissed the applicant from service on 13.03.2000 as per Annexure A-3 order. The applicant aggrieved by the order of punishment submitted an appeal on 27.04.2000 to the 3rd respondent, the Appellate Authority as per Annexure A-4. The Appellate Authority also concurred with the action taken by his subordinates and rejected the appeal on 16.02.2001. The applicant approached the Revisional Authority with a petition dated 07.12.2001. The Revisional Authority also rejected the petition as per order dated 15.11.2002 at Annexure A-7. Aggrieved by this, the applicant has filed this OA seeking the following relief:-

- i, Call for the records leading to Annexure A-3 order issued by the 2nd respondent and set aside the penalty of dismissal from service imposed on the applicant thereunder and quash Annexure A-5 appellate order issued by the 3rd respondent upholding penalty imposed under Annexure A-3. It is most respectfully prayed that the applicant be ordered to be reinstated the service and be treated as on duty for the intervening period for all purposes with arrears of full pay and allowances.
2. Reply statement has been filed by the respondents contesting the averments in the OA and submitting that the inquiry was conducted by the disciplinary authority according to rules giving every opportunity to the applicant to defend her case and there was no denial of natural justice. The punishment was imposed after careful consideration of all the aspects and taking into account the gravity of charges which have been proved. The main point is not whether there was any monetary loss for the department but the breach of trust on the side of the applicant as a responsible Central Government employee which constitutes the grievous nature of the offence. The Appellate and Revisional Authorities have also considered all the points raised by the applicant and therefore, the prayer of the applicant is not sustainable.

3. The learned counsel for applicant argued that the charges framed against the applicant related to fraudulent withdrawal from SB account and did not constitute any misappropriation of funds and at best it could be termed only as a temporary misappropriation. He also urged that the applicant was not given a personal hearing by the Appellate Authority and she was also not furnished a copy of the preliminary inquiry report. It was also submitted that the applicant is a widow with grown up daughters and the dismissal from service has adverse consequence on her financial position. The respondents counsel on the other hand contended that the applicant has been guilty of grave breach of trust and whether the defrauding of the amount was temporary or permanent misappropriation is immaterial. It was pointed out that the applicant is a habitual offender and had been guilty of fraud in 1982 when she had been compulsorily retired and reinstated as per Tribunals' orders and even after reinstatement she had taken recourse to the same methods.

4. We have heard the learned counsel on both sides perused materials and papers on record including the inquiry report and the impugned orders. It was observed that the enquiry has been conducted as per instructions of the CCS (CCA) Rules, 1965 regarding examination of documents and witnesses and the applicant cannot complain of denial of natural justice. The contention that the preliminary inquiry report was not furnished to her is not valid as it is not prescribed under the Rules, that being a confidential document and only fact finding in nature. The denial of personal hearing also does not vitiate the procedure as there was no request on behalf of the applicant for a personal hearing and it is raised now only in the OA. In fact this point had been dealt with by the Revisional Authority that it cannot be taken as a matter of right. All the points raised by the applicant in the appeal have been enumerated and discussed in the orders of the Appellate as well as the Revisional Authorities and these orders cannot be considered as passed without application of mind. In fact the applicant's pleas in the appeal as well as the revision are only with

regard to her family circumstances and pleading for humanitarian considerations. The authorities were not to be guided by her family circumstances, they cannot overlook the fact that she had indulged in such a misconduct of siphoning out money from the saving deposits in the Post Office without the knowledge of the depositors. It may be true that after utilising the money for her personal needs she has replenished the same in the deposits thereby keeping the depositors in the dark about her activities. In fact in the inquiry she has admitted the charges.

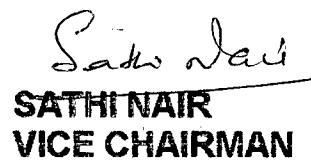
5. On consideration of all the above aspects, we are of the view that the impugned orders of the Disciplinary Authority, Appellate Authority and Revisional Authority do not require any interference. The Disciplinary Authority has correctly said in the order that when personal circumstances are weighed against departmental and public interest, priority is to be given to the latter.

6. The OA is therefore dismissed. No order as to costs.

Dated, 9th January, 2006.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



Sathi Nair
SATHI NAIR
VICE CHAIRMAN

VS