

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.1/2000

Friday, this the 22nd day of February, 2002.

CORAM

HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR K.V. SACHIDANANDAN, JUDICIAL MEMBER

P.S. Vasanthy,
Ex-Extra Departmental Sub Postmaster,
Kizhupillikara P.O,
Irinjalakuda.

Applicant

[By Advocate Mr.P.C. Sebastian]

Vs.

1. Union of India represented
by Secretary,
Ministry of Communications,
Department of Posts, New Delhi.
2. The Postmaster General,
Central Region,
Kochi-682 016
3. The Director of Postal Services,
Central Region,
Kochi-682 016
4. The Superintendent of Post Offices,
Irinjalakuda Division,
Irinjalakuda.
5. Shri T.K. Jacob (Inquiry Authority),
Sub Divisional Inspector of Post Offices,
Kodungalloor Sub Division,
Kodungalloor.

Respondents


[By Advocate Mr S.K. Balachandran, ACGSC (R-1 to 4)]

The application having been heard on 30.1.2002, the
Tribunal delivered the following order on 22.2.2002.

O R D E R

HON'BLE MR K.V. SACHIDANANDAN, JUDICIAL MEMBER

Applicant, an ex-Extra Departmental Sub Postmaster (EDSPM) of Kuzhupillikara P.O. was removed from service by an order of the 4th respondent pursuant to a disciplinary proceeding. She was appointed on compassionate grounds consequent on the untimely death of her father who was EDSPM, Kuzhupillikara. On 23.12.93 she was placed under put off duty



which was ratified by the 4th respondent and as per his letter No.F1/13/93-94 dated 3.2.94 (Annexure R-1) issued a memo of charges under the P & T ED Agents (Conduct and Service) Rules, 1964. The articles of charges levelled against the applicant were as follows:

"Article-I: That the said Smt.P.S. Vasanthi while functioning as EDSPM, Kizhupillikara during No.93 kept the office cash short by Rs.207/- on 23.11.93 and thereby failed to maintain absolute integrity and devotion to duty contravening Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964.

Article-II: That the said Smt.P.S. Vasanthi while functioning as EDSPM, Kizhupillikara EDSO during the period from 18.9.86 to 23.12.93 had fraudulently withdrawn Rs.500/- each on 10.11.93, 16.11.93 and 22.11.93 respectively from SB Account No.340062 standing open at Kizhupillikara EDSO in the name of Miss. O.S. Sajini, Ottoly House, Kizhupillikara by filling up the withdrawal forms herself and forging the signature of the depositor and thereby failed to maintain absolute integrity and devotion to duty violating Rule 17 of P&T ED Agents (Conduct and Service Rules) 1964."

2. Applicant pleaded not guilty and the 5th respondent was appointed as the Inquiring Authority by the 4th respondent as per Memo No.F1/13/93-94 dated 16.3.94. The Sub.Divisional Inspector of Post Offices, Chalakudy was appointed as Presenting Officer. After elaborate inquiry, the Inquiry Report was submitted on 19.8.95 by the Disciplinary Authority with the following findings:

"I hold that the 1st article of charge levelled against Smt. P.S. Vasanthi, EDSPM, Kuzhupillikara (under put off duty) as not proved and that the second article of charge as proved, as a result of this Inquiry."

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"...and a punishment of removal from service was awarded with immediate effect."



3. Aggrieved by the punishment the applicant submitted an appeal before the 3rd respondent (Appellate Authority) contending that the inquiry proceedings were vitiated due to the failure on the part of the Inquiring Authority to follow the provisions of sub rule 16 of Rule 14 of CCS (CCA) Rules. The Appellate Authority (3rd respondent) as per order No.ST/7-10/96 dated 21.6.96 (Annexure A-1) remitted back the case to the disciplinary authority with a direction to hold de-novo proceedings from the stage where this was closed. Consequent upon the remittance of the case the 5th respondent commenced the proceedings and permitted the applicant to adduce further documents and evidence and finally submitted his report on 27.11.96 (Annexure A-2). The Inquiring Authority submitted his report on 25.6.97 (Annexure A-4) and found that the first article of charges was not proved and the second article of charges stand proved. The applicant submitted a representation against the report on 30.7.97 pointing out the denial of opportunity and charges were not proved and no evidence to substantiate the charges were levelled. The 4th respondent rejected the representation and imposed the same punishment of removal from service as per order dated 31.8.97 (Annexure A-5).


4. Aggrieved by Annexure A-5 punishment order, the applicant submitted an appeal dated 20.10.97 (Annexure A-6) before the 3rd respondent pointing out several irregularities and infirmities in the Inquiry report and punishment order. The 3rd respondent rejected the appeal vide order No.ST/7-63/97 dated 28.4.98 (Annexure A-7) after affording an opportunity of hearing. Thereafter the applicant filed a revision petition dated 10.11.98 (Annexure A-8) before the 2nd respondent alleging irregularities and denial of reasonable opportunity



and non-application of mind of the authorities who passed the order. The 2nd respondent (Revisional Authority) rejected the revision petition as per order No.ST/8-1/99 dated 8.2.99 (Annexure A-9). Aggrieved by the orders at Annexure A-4, A-5, A-7 and A-9, the applicant has filed this O.A. under Section 19 of the Administrative Tribunal Act seeking the following reliefs:

- "(i) to call for the files leading to the issue of Annexures A9, A5, A7 and A4 and quash the same.
- (ii) to direct the respondents to reinstate applicant into service with all consequential benefits.
- (iii) to grant such other relief which may be prayed for and for which this Hon'ble Tribunal may deem fit and proper to grant in the facts and circumstances of the case.
- (iv) to award costs in favour of the applicant."

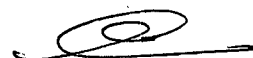
5. The 4th respondent has filed a reply statement for and on behalf of the other respondents stating that shortage of cash and fraudulent withdrawal of money by the applicant and has failed to maintain absolute integrity and devotion to duty violating Rule 17 of the P&T ED Agents Conduct and Service) Rules, 1964, and produced Annexures R-1 to R-4 (copies of charge sheet, charge Memo, the order of 3rd respondent dated 28.4.98 and the order of 2nd respondent dated 8.2.99 respectively). These documents were also produced by the applicant. It is contended that the order of the authorities removing the applicant from service commensurate with the gravity of lapses committed by the applicant and the retention of such Postmaster in service will be detrimental to the public interest and the punishment imposed by the Disciplinary Authority is not severe. In charge No.2 i.e., fraudulent withdrawal of money was proved and based on documentary and



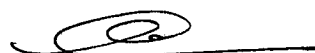
oral evidence the removal of the applicant from service is justified. Reasonable opportunity was given to the applicant for defending the case and permitted to cross-examine on the defence side. Therefore interference of this Tribunal is not called for and hence the application is only to be dismissed.

6. We have heard the counsel for both the parties and perused the documents placed on record. Even though it was contended that the disciplinary authority has been swayed by extraneous consideration in awarding the punishment, nothing is brought out in evidence by the applicant. On perusal of the report and orders of the disciplinary, appellate and revisional authorities, it is evidently clear that they have applied their mind in coming to such conclusion because meticulous evidence has been perused which is reflected in these orders. From the available records it is also clear that ample opportunities were given to the applicant in defending the case. The principle of natural justice has been applied and therefore it cannot be said that the proceedings are vitiated in any manner. We have also seen no perversity in these proceedings nor in the findings. The question to be looked into by this Tribunal whether the proceedings of the disciplinary, appellate and the revisional authority are justified and the interference of this Tribunal is called for .

7. We have given thoughtful consideration in the matter in the light of the elaborate submissions made by the learned counsel for the parties and the available materials placed on record. At the outset, it may be mentioned that it is well settled proposition of law that Court, or for that matter, this Tribunal, has no power to interfere with the findings of the disciplinary/appellate authority by re-appreciating the



evidence. The law on the point has been authoritatively settled by the Apex Court that the Tribunals cannot sit as a Court of appeal over the decision based on the findings of the competent authority in disciplinary proceedings. The celebrated case on the point is B.C. Chaturvedi Vs. Union of India and others, (1995) 6 SCC 749, preceded by the earlier decisions in the case of State of T.N. Vs. T.V. Venugopalan, (1994) 6 SCC 302, Union of India Vs. Upendra Singh, (1994) 3 SCC 357 and Government of T.N. Vs. A. Rajapandian, (1995) 1 SCC 216. In a subsequent decision in the case of State of T.N. and another Vs. S. Subramaniam, (1996) 7 SCC 509, it was observed that it is settled law that the Tribunal has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees. It is the exclusive domain of the disciplinary authority to consider the evidence on record and to record the findings whether the charge has been proved or not. It is equally settled law that technical rules of evidence have no application to the disciplinary proceedings and the authority is to consider the material on record. In judicial review, it is settled law that the Court or the Tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It is meant to ensure that the delinquent receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the view of the Court or the Tribunal. This is also reiterated by the decision of the Apex Court in Government of A.P. Vs Ashok Kumar, 1997(5) SCC 478. The observations made in this decision is to the effect that the conclusion reached by the authorities is based on the evidence, the Tribunal have no power to



re-appreciate the evidence and give its own conclusion on the proof of charge and yet another decision in the case of Commissioner and Secretary to the Government and others Vs. C. Shanmugham, (1998) 2 SCC 394, the Apex Court held that the Tribunal cannot sit as a court of appeal over a decision based on the findings of the Inquiring authority. In short, the Tribunal cannot re-appreciate the evidence and in the instant case the order of punishment passed by the Disciplinary Authority rest on proper ground and the punishment inflicted is in terms of the gravity of the offence. It is true that in the appeal and revision, the applicant has taken various grounds to challenge the order of punishment, but the authorities have specifically dealt with each one of the points raised by the applicant and the respondents applied their mind while considering the case and came to the proper conclusion. The deletion of charge No.1 by the appellate authority will indicate that the application of mind and therefore is not justified in finding fault with the orders of the appellate and revisional authorities.

8. In the light of the above we find that the imposition of penalty on the applicant passed by the disciplinary authority, appellate authority, which was confirmed by the revision order which is under challenge in this O.A. does not warrant any interference by this Tribunal.

9. The Original Application is therefore dismissed as devoid of any merit. There will be no order as to costs.

Dated the 22nd of February, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

I N D E X

Applicant's annexure

- A-1 True copy of order No.ST/7-10/96 dt.21.6.96 issued by the 3rd respondent.
- A-2 True copy of the Inquiry Proceedings dt.27.11.96 issued by the 5th respondent.
- A-3 True copy of the Inquiry Proceedings dt.10.4.97 issued by the 5th respondent.
- A-4 True copy of the Inquiry Report dt. 25.6.97 issued by the 5th respondent.
- A-5 True copy of the Memo No.F1/13/93-94 dt. 31.8.97 issued by the 4th respondent.
- A-6 True copy of the appeal dt. 20.20.97 submitted by the applicant to the 3rd respondent.
- A-7 True copy of order No.ST/7-63/97 dt. 28.4.98 issued by the 3rd respondent.
- A-8 True copy of the revision petition dt. 10.11.98 filed by the applicant.
- A-9 True copy of order No.ST/8-1/99 dt. 8.2.99 issued by the 2nd respondent.

Respondents' annexure

- R-1 True copy of Memo No.,F1/13/93-94 dt. 3.2.94 issued by the Superintendent of Post Offices, Irinjalakuda.
- R-2 True copy of Memo No.F1/13/93-94 dt. 31.8.97 issued by the Superintendent of Post Offices, Irinjalakuda.
- R-3 True copy of Order No.ST/7-63/97 dt. 28.4.98 issued by the Postmaster General, Central Region, Kochi-16.
- R-4 True copy of Order No.ST/8-1/99 dt. 8.2.99 issued by the Postmaster General, Central Region, Kochi-16.