

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A.No.568/2002

Thursday, the 11th March 2004

C O R A M

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

S.Rameshkumar, S/o Sukumaran Nadar
Ex-Postman, Thirumala P.O
R/o Kizeehathil Veedu,
Kidaarikuzhi, P.O, Thiruvananthapuram-23.

Applicant

(By Advocate Mr.Vishnu S Chempazhanthiyil)

Vs.

1. Superintendent of Post Offices
Thiruvananthapuram South Division
Thiruvananthapuram-14.
2. Director of Postal Services (SR)
Office of the CPMG
Kerala Circle, Thiruvananthapuram.
3. The Member (Personal)
Postal Service Board, New Delhi.
4. Union of India, rep. by its Secretary
Ministry of Communications, New Delhi.

Respondents

(By Advocate Mrs Chithra, ACGSC
Mr.John, Advocate)

The application having been heard on 11.3.04 and on the same day the Tribunal ordered the following:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN.

The applicant, ex-Postman, Tirumala Post Office, has filed this application challenging the legality, propriety and correctness of the order dated 10.12.98 (Annex.A1) of the first respondent imposing on him a penalty of dismissal from service, as also Annex.A3 order dated 4.8.99 of the second respondents in concurring with the order reducing the penalty of dismissal to that of removal which would not be a disqualification for future appointment and the order dated 7.5.02 (Annex.A5) of the 3rd respondents, the revisionary authority refusing to interfere with the appellate authority's order.

2. The facts of the case in nutshell are as follows: While the applicant working as Postman, Tirumala, he was proceeded under Rule 14 of the CCS(CCA) Rules for certain misconduct which related to misappropriation of funds by appropriating the money due under money order to himself without paying the same to the payees and forging their signatures. There were three articles of charges. The applicant having denied the guilt, an enquiry was held with which he participated. The Inquiry authority on appreciation of the evidences recorded at the enquiry held that the article-I was not established and articles-II & III proved. The copy of the enquiry officer's report was supplied to the applicant and he made representation. The disciplinary authority on considering the enquiry report and representation made by the applicant, held the applicant is guilty of articles-II & III and imposed on him a penalty of dismissal from service by the impugned order Anxx.A1. In appeal, the appellate authority finding no reason in disagreeing with the findings of guilt recorded by the disciplinary authority modified the penalty to one of removal from service so that the penalty would not preclude him future employment. The revisionary authority did not find any reason to interfere with the appellate order and therefore dismissed revision petition. Aggrieved by these orders, the applicant has filed this application seeking to quash Annxs.A1, A3 and A5 and direct the respondents to reinstate the applicant back into service with all consequential benefits.

3. The main grounds on which the applicant seek to assail the impugned orders are: (a) that the enquiry was not in conformity with the rules as he has not been supplied with the copy of the preliminary enquiry report as also the statement of one G.Chellan, Mail Overseer as witness; (b) the finding that the applicant is guilty is perverse as the same is not supported

by any evidence; (c) the enquiry authority, disciplinary authority and authorities above have placed reliance on a statement of admission extracted from the applicant under duress; (d) that the penalty of removal from service is grossly disproportionate to the misconduct established; and (e) that the Sub-Divisional Inspector/Sub-Postmaster who belongs to a rival Union has influenced the witnesses.

4. The respondents in the reply statement have disputed all these allegations.

5. We have carefully gone through the application and annexures appended thereto and also the reply statement of the respondents. We have also gone through the enquiry report. We shall deal with the grounds raised by the applicant one by one.

6. The contention of the applicant that the enquiry has been held violating the provisions of the rules for the reason that the preliminary enquiry report and statement of Chellan was not supplied to the applicant and therefore the enquiry is vitiated has no force at all because, it is evident from the order of the disciplinary authority that the neither the preliminary enquiry report nor the statement of Chellan was considered for holding that the applicant was guilty. We have perused the enquiry report as also the disciplinary authority's order and we find that the finding that the applicant was guilty is based on the statement of witnesses namely payees money order that the money due under the money orders were not paid to them and the signature found in the acknowledgment was not theirs. The evidence has been rightly accepted and on the basis of the evidence only it was held that the charges were established.

✓

The statement of the applicant admitting the misappropriation also has been considered. Hence it cannot even be seriously contended that this is a case of no evidence.

7. The argument on behalf of the applicant that a statement of admission extracted from him on duress has only to be rejected because had such statement been extorted under duress, in the normal course the applicant would have immediately made a protest complaint to the higher authorities. The applicant did not do so. Further, the applicant has not adduced any evidence to show that he was put under duress by the SPM who recorded the statement. This conclusion is, therefore, only an after thought.

8. The argument that the penalty is grossly disproportionate also does not appeal to us, because, the misconduct established against the applicant is misappropriation of funds which is a serious misconduct. If Postal employees who commit such misconducts are let off with some minor penalties, the Postal Department would loose its credibility as a public utility service.

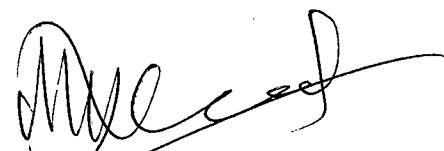
9. The contention that the SDI has influenced the witness to depose against the applicant on account of the Union rivalry has not been established by the applicant. Further the SDI against whom allegation has been made has not been impleaded by name. We, therefore, do not find any merit in this contention.

10. In the light of what is stated, we do not find any merit at all in this application and we dismiss the same leaving the parties to bear their costs.



(T.N.T.Nayar)
Administrative Member

kkj



(A.V.Haridasan)
Vice Chairman.