

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA NO. 582 of 2006.

THURSDAY THIS THE 13th DAY OF MARCH, 2008

C O R A M

**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

G. Sreedharan S/o Gopalan
Perayathu Puthen Veedu
Elampazhannoor PO
Chadayamangalam (Via)
Kollam District.

Applicant

By Advocate Mr. K. Abdul Jawad

Vs.

- 1 Union of India
represented by Secretary to Government
Department of Posts
New Delhi.
- 2 Chief Postmaster General
Kerala Circle,
Thiruvananthapuram.-695 033
- 3 Senior Superintendent of Posts Offices
Koillam Division, Kollam-691 001
- 4 Assistant Sukperintendent of Post Offices
Kollam South Sub Division, Kollam-691 001 ..Respondents,

By Advocate Smt. Aysha Youseff, ACGSC

This Application having been heard. on 5.3.2008 the Tribunal on 13.3.08 delivered the folloiwng:

O R D E R

HON'BLE DR. K.S SUGATHAN, ADMINISTRATIVE MEMBER

The applicant in this OA was working as an Extra Departmental Delivery Agent (now designated as GDS) at the Elampazhannoor Post

Office of Kollam Division since 1982. He was placed on put off duty on 7.4.2000. A charge sheet was issued to the applicant on 18.9.2001 under rule 10 (1) of the GDS (Conduct and Employment) Rule 2001 (A1). There were three articles of charge. All the charges related to the non-delivery of registered letters to the Headmaster Parayad LPS. These registered letters originated from the Regional Passport Office Trivandrum and were addressed to the Headmaster Parayad LPS Elampazhannoor which comes within the jurisdiction of the applicant's duty-area. On denial of the charges, an enquiry officer was appointed. The enquiry officer held that all the three charges are proved. Thereafter the punishment of removal from service was imposed on the applicant by order dated 3.2.2003 (A4). The appeal filed by the applicant against the punishment was rejected by the third respondent on 31.7.2003 (A5). Subsequently the revision petition filed was rejected by the Chief Post Master General on 7.10.2004. The applicant is aggrieved by the punishment imposed on him and has sought the quashing of the orders issued by the respondents at A4, A5 and A6 and for consequential benefits by way of reinstatement in service.


2 In support of the relief claimed the applicant has contended that nearly 15 months after he was placed on put off duty a statement was taken by him under coercion. This statement is cited as S15 in the list of documents in support of the articles of charge. This statement taken under coercion cannot be relied on as evidence to prove the charges.

The second ground cited by him is that the signature of the Headmaster



appearing on the receipt should have been referred to handwriting expert and subjected to scientific analysis to establish it is not the signature of the Headmaster. This has not been done.

3 The respondents have strongly contested the OA and have filed a reply statement followed by additional reply in response to the rejoinder. They have contended that the applicant had fraudulently delivered some registered letters addressed to the Headmaster Parayad LPS to a bogus travel agency. These letters were sent by the Passport office Trivandrum for official confirmation in connection with issue of passports. On receipt of these letters the travel agency managed to send false confirmation to the passport office. There was collusion between the applicant and the bogus travel agency in the passport racket. When this was detected the applicant was placed on put off duty and preliminary investigation was conducted. During the course of the preliminary enquiry the statement of the applicant was recorded. There was no coercion. The statement was given willingly. In the enquiry all the three charges were held as proved. A copy of the enquiry report was given to the applicant. After carefully considering his representation against the enquiry report, it was decided to impose the penalty of removal. The appellate and revision authorities also considered the matter carefully before rejecting the appeal and revision. The punishment is not disproportionate to the gravity of the offence. By his conduct, the applicant has tarnished the credibility of the Postal Department.



4 We have heard the learned counsel for the applicant Shri K. Abdul Jawad and the learned counsel for the respondents Smt. Ayesha Yousef. We have also perused the documents on record carefully.

5 There are two grounds on which applicant seeks the relief. One is that the statement at S.15 document was taken under coercion and therefore cannot be admitted as an evidence in the enquiry. The second ground is that the signature appearing on the receipt should have been subjected to scientific analysis by an expert. Both the grounds have been adequately discussed in the penalty order issued by the respondents. Before examining the first ground we may look at the contents of the statement given by him on 27.6.2001. It reads as follows:

"He had been working as EDDA/MC, Elampazhannur from March, 1982 onwards. Parayad LPS was in his delivery area. Sri Aleykutty Abraham is the HM of Parayad LPS, Trivandrum RL 12152 addressed to HM, Parayad LPS was entrusted to him for delivery on 24.3.00. He further admitted that he has n't delivered this letter to HM, Parayad LPS and that the signature of the addresses appearing the receipt signed by the addressee is not that of HM, Parayad LPS. This RL was received from the Passport Office, Trivandrum. Four persons from Ayur threatened him that registered letters received from Passport office, Trivandrum and addressed to HM, Parayad LPS should be given to Manaf. Due to threat the RL was given to those persons and the receipt was signed by himself. After his put off duty he enquired 'Manaf but could not trace him."

6 The enquiry officer had considered the denial of the statement dated 27.6.2001 by the applicant. His finding on it is recorded as follows:

"a) The defence could not succeed to prove that S15 statement was taken under threat or coercion. The written statement dated 27.6.01 of CGDS is a marked document. The CGDS during self examination accepted only a part of the statement ie. Regarding acceptance and delivery of RLs under S2, S3 and S4 receipts. The remaining part that 'Manaf' and his party threatened him and hence he delivered the RLs to them after putting his own signature in them, was denied by CGDS. This was nothing but an after thought. No complaint to higher authorities regarding threat from Manaf was reported by the CGDS in time. Also CGDS

has not made any complaint regarding threat, if any, from SW-3 and SW4 to higher authorities. Thus accepting a part of S15 statement and at the same time denying another part of S15 statement and at the time of self examination stage only, can not be taken as a reason for discarding S15, statement. Hold that S15 is a valid document in full."

If the statement was taken under coercion the applicant should have represented about it to higher authorities, soon after it was recorded. The statement was recorded on 27.6.2001 and the charge sheet was issued after nearly three months on 18.9.2001. The first sitting of the oral enquiry commenced on 28.12.2001. There was therefore sufficient time available to the applicant to report the alleged coercion to the higher authorities. It is to be noted that the Inspector of Post who recorded the statement at S15 was also examined as a State witness during the enquiry and the applicant had opportunity to cross examine him. S15 was a marked document and it was proved ~~as~~ in the enquiry. We are therefore of the considered view that this argument of the applicant cannot be sustained.

7 The second argument concerns the verification of the signature appearing on the receipt. The Headmistress had denied during the enquiry that it is ~~not~~ her signature. The specimen signatures of the Headmistress were also produced during the enquiry and compared. The enquiry officer had observed in his report that since the applicant had admitted to forging the signature of the Headmistress and besides that a plain visual comparison of the specimen signature with what is appearing in the receipt (R-3 and R-4) clearly shows the vast difference between the two, there was no necessity for a scientific analysis to establish that the signature was forged. During the arguments the learned counsel for the applicant mentioned that the letters were delivered to someone else

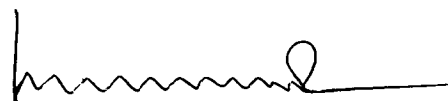
in the school. If that was the case, the applicant should have examined that person to whom the letter was given as a defence witness. But this was not done. The Headmistress was examined as a State witness and cross examined. She had categorically denied that the signature appearing on the receipt is her signature. We also notice considerable difference between the signature appearing on the receipt and the specimen signature of the Headmistress. We are therefore not inclined to accept the argument that because the signature was not referred to an expert for opinion, the conclusion drawn by the enquiry officer is not valid. To conclude this discussion, we are satisfied that all the required procedure has been followed by the respondents before imposing the penalty. The applicant has been given fullest opportunity to defend himself during the enquiry and subsequently before the imposition of the penalty. We are also not persuaded to accept the contention that the punishment is disproportionate. The charges that are held as proved as extremely grave. The circumstances surrounding the charges are even graver. That a public servant was even remotely connected with a racket for facilitating the issue of wrong passports should be considered as a matter of concern for the national security.

8 For the reasons stated above, the OA has no merit and is therefore dismissed. No costs.

Dated 13-3-2008



DR. K.S. SUGATHAN
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER