

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO. 89/2008**

Monday this the 22nd day of June 2009.

**C O R A M**

**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER  
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

K. Alavi S/o Mammad  
Ex-GDS MD, Karapuram  
Kallara House, Karapuram PO  
Edakkara (Via) Nilambur  
Malappuram District, Pin-679 331.

..Applicant

By Advocate Mr. U.K. Devi Das

Vs.

1 Assistant Superintendent of Post Offices  
Perintalmanna Sub Division  
Perintalmanna PO  
Malappuram District.

2 The Postmaster General  
Northern Region,  
Kozhikode

3 Union of India represented by the  
Postal and Telegraph Department,  
New Delhi.

..Respondents

By Advocate Mr. TPM Ibrahim Khan, SCGSC

The Application having been heard on 10.6.2009 the Tribunal delivered the following

**O R D E R**

**HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

The applicant is aggrieved by the order dated 30.6.2004 (Annexure A-6) dismissing him from service, the order dated 1.12.2004 rejecting the appeal (Annexure A-8) and the order dated 30.8.2006 rejecting the revision petition (Annexure A-10).



2        The applicant was working as GDSMD-I Karapuram Post Office since 1982. In the annual inspection carried out on 14.11.2002 by ASPO, Manjeri Sub Division, it was noticed that two money orders for Rs 1000/- and Rs. 360/- which were shown as paid were not actually paid to the payees. As advised by the Superior Officers, he paid the entire money and signed a statement as desired by them. Later, the applicant was suspended from service, memorandum of charges dated 30.8.2003 (A-1) was issued to him. On denial of the charges an enquiry under Rule 10 of the GDS (Conduct and Employment) Rules, 2001 was conducted, inquiry report was submitted in which all the charges were proved (A-4). The applicant was removed from service by memo dated 30.6.2004 (A-6). Applicant filed statutory appeal which was dismissed (A-8) upon which he filed revision petition which was also dismissed (A-10). He is challenging the impugned orders at A-6, A-8 and A-10 on the grounds that the Inquiry Officer violated all procedures and principle of natural justice, the Inquiry Officer committed material irregularity in the proceedings, he was not given opportunity to appoint an Agent of his choice, all documents and evidences against the applicant were not served on the applicant, the appellate authority and the Disciplinary authority did not consider the defence and grounds raised by the applicant in Inquiry as well as appeal, the revisional authorities acted in mechanical manner and failed to apply judicial mind, the punishment imposed on the applicant is disproportionate to the gravity of the offence as per various judgments.

3        The respondents opposed the O.A. by filing reply statement. They submitted that the applicant had admitted the commission of forgery and fraud in his statements before the ASP, Manjeri Sub Division. The applicant had nominated a person of his choice as Defence Assistant.

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They denied the allegation that the statement was recorded under threat and as dictated by the superior officers. They submitted that the procedure prescribed was correctly followed, documents were marked, witnesses were examined and cross examined. The charges were proved beyond doubt in the enquiry. Enquiry report was submitted evaluating every piece of evidence with proper application of mind as evidenced therein. The applicant at no stage of the proceedings raised any allegation against the Inquiring Authority. In case the applicant had any case against the IA he could have agitated at appropriate stage of the proceedings.

4 The applicant filed rejoinder opposing the averments in the reply statement and reiterating the averments in the O.A.

5 We have heard the learned counsel for the parties and have gone through the records produced before us.

6 The articles of charge framed against the applicant is extracted below:

**Article I:-** That the said Sri K. Alavi while working as GDSMD -I Karappuram treated Athani Thrissur MO No.3620 dated 26.10.02 for Rs. 1000/- payable to Sri K.J.Joseph, Kizhakkethayyil House, Karappuram as paid to the payee on 28.10.02, without actually obtaining the signature or left hand thumb impression of the payee on the MO form and without paying the value of the MO to the payee violating the provisions of Rules 121(2) and 127(1) of Postal Manual Vol. VI Part-III (Sixth Edition) and thereby failed to maintain absolute integrity and devotion to duty, required of him vide Rule 21 of Gramin Dak Sevaks (Conduct and Employment) Rules, 2001.

**Article II:-** That the said Sri. Alavi while working as GDSMD-I, Karappuram, treated Edakkara Nilambur MO No. 4461/639 dated 10.10.02 for Rs. 360/- payable to Smt. Thressiamma, Thekkekara, Karappuram as paid to the payee on 24.10.02, without actually obtaining the signature or left hand thumb impression of the payee on the MO form and without paying the value of the MO to the payee, violating the provisions of Rules 121(2) and 127(1) of Postal Manual Vol. VI Part-III(Sixth Edition) and thereby failed to



maintain absolute integrity and devotion to duty, as required of him vide Rule 21 of Gramin Dak Sevak (Conduct and Employment) Rules, 2001.

7 It is seen from the enquiry report that 23 documents were identified, marked and 10 witnesses were examined. There were no witnessess and documents on behalf of the defence. The charged GDS was not willing to be self examined. The conclusion of the Enquiry Officer is extracted below:

" Therefore, it is found that both the articles of charges framed against the charged GDS under Article I and Article II are proved beyond doubt by the oral documental and circumstantial evidences adduced in the Inquiry."

8 The grounds urged by the applicant are vague and general in nature. There is no menion of any specific violation of principle of natural justice or the procedure adopted in the enquiry. The applicant alleges that the ASPOs misled the applicant and the statements were given under compelling circumstances. However, ample opportunity was given to the applicant to prove his innocence. But he failed to produce any defence witness or document in support of his innocence during the enquiry. The Defence Assistant of his own choice was appointed to assist him. The applicant had not raised any objection about the conduct of the inquiry, appointment of the Defence Assistant or procedure followed in the enquiry, during the enquiry.

9 The applicant has raised the ground that the appointing authority participated in the inquiry proceedings but the applicant himself admitted that another officer imposed the penalty on the applicant. In that circumstance, we do not find any illegality in the appointing authority giving

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evidence against the applicant. If the Disciplinary authority was called upon to give evidence against the employee as a witness, then there would have been a case of prejudice. In this case because his disciplinary authority happened to be a material witness, an adhoc disciplinary authority was appointed.

10 The applicant has also attacked the appellate and revisional orders on the grounds of non-consideration of the defences and various grounds including non-granting of personal hearing, raised by him in the appeal and revision petition respectively. We have gone through the appeal and revisional orders carefully and are satisfied that the appellate and revisional authorities have considered each and every grounds raised by the applicant in the appeal/revision petition and passed the orders confirming the order of punishment imposed on him. Therefore, we do not find any illegality in these orders.

11 In V. Ramana Vs. APSRTC and Others (2006 SCC (L&S) 69, the Apex Court held as follows:

12. To put it differently unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the Court/Tribunal there is no scope for interference. Further to shorten litigations, it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In a normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed.

As regards the argument of imposition of penalty of removal is disproportionate to the gravity of the offence, the Apex Court held that unless the punishment shocks the conscience of the Court/Tribunal there



is no scope for interference. The applicant a GDS MD, committed a grave offence in not disbursing the money orders to the payee and misappropriating the money by forging the signature of the payee. He has abused the trust reposed in him by the public as well as the Postal authorities and tarnished the reputation of the Department by misappropriating the money. Such an employee cannot be allowed to continue in service. Removal from service is the only punishment which could be imposed on him.

12        The the Apex Court in Karnataka Bank Ltd. Vs. A. L. Mohan Rao (2006 SCC (L&S) 59 held as follows:

6        "In our view, a gross misconduct of this nature does merit termination. We fail to see what other type of misconduct would merit termination. It is not for the courts to interfere in cases of gross misconduct of this nature with the decision of the disciplinary authority so long as the inquiry has been fair and proper and misconduct proved. In such matters, it is for the disciplinary authority to decide what is the fit punishment. In any case on such misconduct, it could never have been said that termination of service is not the appropriate punishment.

7        We therefore set aside the orders of the learned Single Judge as well as the division Bench and restore the order of termination of service."

The Apex Court in the above case of a Bank employee charged with gross misconduct held that it is not for courts to interfere in cases of gross misconduct of this nature with the decision of disciplinary authority on any mistaken notion of sympathy, so long as inquiry has been fair and proper and misconduct proved. In such matters it is for the disciplinary authority to decide that is the fit punishment. In the case on hand the applicant, a GDSMD was charged for taking payment of two money orders forging the signature of the payees and utilised the amount for his

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personal use. His nature of duty is only to deliver mail including money orders and he cannot be given any alternative job which does not involve monetary transaction.

13 Having heard the learned counsel on both sides and perused the documents produced before us, we are of the considered view that none of the grounds raised by the applicant is sustainable under law. The offence committed by the applicant is proved in the inquiry. There is no ground for judicial interference. We hold that the punishment of removal from service is proportionate to the gravity of the offence committed by the applicant. The Application is accordingly dismissed. No costs.

Dated 22nd June, 2009

  
**K. NOORJEHAN**  
**ADMINISTRATIVE MEMBER**

  
**GEORGE PARACKEN**  
**JUDICIAL MEMBER**

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