

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 171 of 2002

Monday, this the 21st day of June, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. M.K. Raveendran Nair,  
S/o Govindankutty Nair,  
Ex-Branch Post Master, Kannadipoyil BO,  
residing at Mangadan Kandi House,  
Kannadipoyil PO, Balussery-673612 .....Applicant.

[By Advocate Shri M.R. Hariraj]

Versus

1. The Superintendent of Post Offices,  
Vadakara Division, Vadakara-673101.
2. The Director of Postal Services,  
Northern Region, Calicut-673011.
3. The Post Master General,  
Northern Region, Calicut-673011.
4. Union of India represented by the  
Secretary, Ministry of Communications,  
New Delhi. ....Respondents

[By Advocate Shri C. Rajendran, SCGSC].

The application having been heard on 21-6-2004, the  
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, Ex-Extra Departmental Branch Postmaster, Kannadipoyil BO, has filed this application challenging the legality, propriety and correctness of the order dated 29-10-1999 (Annexure A1) of the 1st respondent imposing on him a penalty of removal from service, the order dated 6-11-2000 (Annexure A2) of the 2nd respondent refusing to interfere in appeal and the order dated 31-12-2001 (Annexure A3) of the 3rd

respondent confirming the orders of the disciplinary authority as also the appellate authority. The factual matrix is as follows:

2. On 7-3-1998 the Inspector of Post Offices made an inspection of the Branch Office where the applicant was the Branch Postmaster and on inspection of the cash and stamps it was noticed that a sum of Rs.7500/- in cash was short. Immediately the Inspector of Post Offices made a note of the sum of Rs.7500/- as unclassified cash and then allowed the applicant to go and bring the money. The applicant within half an hour came with the cash and the same was deposited. Alleging that the applicant has failed to maintain absolute integrity and devotion to duty as a sum of Rs.7500/- was short in cash balance when the Inspector of Post Offices inspected, a memorandum of charges was served on the applicant. The applicant in his statement clarified that as per rules he was permitted to keep the cash safely at his residence, that on the day in question he had forgotten to bring the cash, that he had immediately on the Inspector of Post Offices asking him to produce the cash produced the money without any delay and that this being in accordance with the rules he has not committed any misconduct. Dissatisfied with the explanation an enquiry was held in which the applicant participated and the impugned order Annexure A1 was issued imposing on him a penalty of removal from service. The appellate authority as also the revisional authority refused to interfere with the penalty advise. It has been alleged in the application that the whole process of proceedings against the applicant for misconduct, the findings that he is guilty, the penalty imposed on him and the orders of the appellate and revisional authorities are totally perverse and bereft of application of mind and, therefore, the impugned orders are liable to be set aside.

3. Respondents contend that the enquiry having been held in accordance with the rules and the penalty having been rightly imposed, the situation does not call for any judicial intervention.

4. We have with meticulous care gone into the pleadings and materials placed on record and have heard Shri M.R.Hariraj, learned counsel of the applicant and Shri C.Rajendran, learned SCGSC for the respondents.

5. Shri Hariraj, learned counsel of the applicant invited our attention to the provisions contained in Rule 11 of the Rules for Branch Offices as also paragraph 217 of the P&T Manual Volume-V. It is profitable to extract Rule 11 as also the paragraph 217 of the P&T Manual Volume-V, which read as follows:-

Extract of Rule 11 of the Rules for Branch Offices.

**"Custody of cash:**

(1) It may not be necessary to supply a safe to every extra departmental branch office, but one may at the discretion of the Supdt Post Offices be provided on the report of the S.D.I supported by the recommendation of the S.D.I.

(2) When a safe is supplied to a branch office, the cash, postage stamps, articles in deposit, stamps and seal, and in short, all articles of value including money order forms should be locked up in it, special care being taken to lock up insured articles in deposit and the B.P.M should keep the key or keys on his person by day and night. The greater portion of the stock of postage stamps of the office should always, even during the day time, be kept inside the safe, and only the stamps required for a day's sales, or half a day's sales should be taken out at a time.

**Note-** All E.D.B.P.Ms, whether their offices are provided with iron safes or not should make their own arrangements for the safe custody of cash and valuables on their own responsibility. They are at liberty to keep the cash and valuables wherever they like provided that they are available when required and that, when called for, they can be produced for inspection

within the time required for going to and coming back from the place where the cash is kept for safe custody."


Extract of P&T Manual Volume V Paragraph 217

"If a supervising officer finds a deficiency in the cash or stamp balance of a post office or record office, the Post Master or Treasurer or both in the case of Post Office or the record clerk in the case of Record Offices should be called upon to produce the money or stamps. If the official or officials cannot do so and are unable to give a satisfactory explanation an inventory of the cash and stamps actually found should be drawn up and got signed by two independent witnesses and action should be taken as prescribed in the rules on the subject of criminal offences in chapter IV, P&T Manual Vol.II.

Note 1. All extra departmental sub & Branch Post Masters, whether their offices are provide with iron safes or not, are required to make their own arrangements for the safe custody of cash and valuable on their own responsibility.

Note 2. In the case of Sub or Branch Office in charge of an ED Agent when deficiency in the cash or stamp balance is noticed by a supervising officer, time should be given to the ED Agent to sent for the cash, stamps etc. and no charge of fraud should be made against him, unless he is unable to produce the full balance shown by the accounts "within the time required for going to and coming back from place where the cash is kept for safe custody". If any unreasonable delay occurs, the supervising officer should make local enquiries and if has good reason to suspect dishonesty, he should proceed in accordance with the instruction in the above rule."

6. Shri Hariraj argued that in the face of this rule position, as it is undisputed that the applicant within half-an-hour produced the deficit cash of Rs.7500/-, the action on the part of the Inspector of Post Offices in recording Rs.7500/- as unclassified cash and proceedings against the applicant under Rule 8 of the ED Agents (Conduct & Appeal) Rules was without application of mind and that as the applicant has not committed any misconduct, the impugned orders are unsustainable.



7. Learned counsel of the respondents, on the other hand, argued that since the money had required for transaction in the Post Office, the applicant should have brought the money and failure to do so would amount to misconduct.

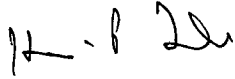
8. The only charge against the applicant is that when the Inspector of Post Offices inspected the Post Office and checked the cash balance and the stamps account, a sum of Rs.7500/- in cash was found short. The Inspector visited the office at 10 AM. When the amount was found short, he immediately charged the shortage as "unclassified payment" and then only permitted the applicant to bring the cash. The applicant immediately went to his house and brought the cash, but he was made to deposit the same at 11 AM. There is no allegation that the applicant did not keep the money in safe custody in his house or that he took more time than required to produce the money. Under these circumstances, we find that the action on the part of the Inspector in charging the sum of Rs.7500/- as unclassified payment, making the applicant deposit the money and proceeding against the applicant was against the provisions contained in Rule 11 of the Rules for Branch Offices as also paragraph 217 of the P&T Manual Vol.V. Even after the applicant explained in his statement that he had acted in accordance with the said provisions, the disciplinary authority decided to continue with the proceedings. The finding that the applicant guilty, therefore, is perverse and unsustainable. The appellate and revisional orders are also bereft of application of mind and are not sustainable.

9. In the light of what is stated above, the application is allowed. The impugned orders Annexure A1 to Annexure A3 are set aside. Respondents are directed to reinstate the applicant with continuity of service and consequential benefits and to.

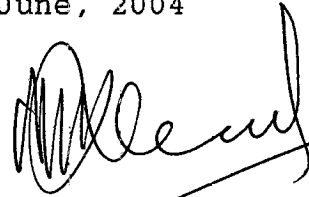
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make available to the applicant the full backwages for the period he was kept out of service within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.

Monday, this the 21st day of June, 2004



H.P. DAS  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

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