

4.5.1988

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCHO.A. No. 171/86

K. S. Narayanan

Applicant

Vs.

1. The Post Master General,
Kerala Circle, Trivandrum
2. Director of Postal Services
Calicut Region, Calicut
3. The Superintendent of Post
Offices, Cannanore

Respondents

M/s. T. K. Chandrasekhar Das &
E. K. MadhavanCounsel for the
applicant

Mr. P. V. Madhavan Nambiar, SCGSC

Counsel for the
respondents

CORAM:

Hon'ble Shri P. Srinivasan
Administrative Member

&

Hon'ble Shri G. Sreedharan Nair,
Judicial Member(Order pronounced by Hon'ble Shri G. Sreedharan Nair,
Judicial Member on 4.5.1988)O R D E R

This is an application filed by an Extra Departmental Branch Postmaster against whom a penalty of removal from service was imposed by the order dated 31.12.1984, which was confirmed on appeal. The imposition of the penalty was on the basis of regular enquiry conducted in accordance with Rule 8 of the Extra Departmental Agents (Conduct and Services) Rules, referred to hereinafter as 'Rules.' The charge against him was that he failed to maintain devotion to duty and thus violated rule 17 of the Rules. The imputation was that while the IPO visited the post office on 3.9.1983 for surprise inspection, the applicant misbehaved towards him. It is urged that as the

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two witnesses examined in the course of the enquiry
P^t speak
did not speak regarding the alleged misbehaviour, by placing reliance on the testimony of the third witness, the IPO, conclusion of guilt should not have been arrived at. There is also the plea that the penalty awarded is disproportionate to the offence alleged.

2. In the reply filed on behalf of the respondents it is stated that when the IPO went to the office for inspection and requested for a seat, the applicant shouted at him and began to speak disparagingly of the department itself. It is also stated that when the IPO asked for the office order book, the applicant refused to handover the same, and that when a statement was called for from the applicant, he did not comply. It is contended that there is no reason for interference.

3. The jurisdiction of this Tribunal in a matter like this has by now been well settled. The Tribunal will interfere only if it is satisfied that finding against the civil servant has been arrived at without any evidence at all. In that case, naturally, the finding will be perversed, for a no reasonable man can arrive at a conclusion of guilt without any evidence at all in that respect. However, in a case where there is some evidence, the Tribunal will not re-appraise the said evidence as if it is an appellate authority. On going through the records, we are satisfied that this is a case which falls within the latter category. The only attack against the report of the enquiry officer and the finding

of the disciplinary authority is that since the first two witnesses did not specifically speak regarding the alleged misbehaviour, solely by placing reliance on the testimony of the IPO who was examined as the third witness, a conclusion of guilt should not have been arrived at. On going through the ~~examination~~ ^{testimony} of the witnesses, we notice that even the first witness did state that there was some conversation between the applicant and the IPO at the time of the incident, though he is not in a position to narrate the actual words which were used by the applicant. No doubt, the second witness ^{stated} ~~admit~~ that though there was a conversation, the applicant did not say anything unbecoming ~~of the matter~~. But the IPO has in categoric terms stated the words actually used by the applicant, abusing not only the IPO himself, but the superior officers in the department also. There is no case in the application that the IPO had any ill will or an axe to grind against the applicant so as to make the IPO's ^p ~~testimony~~ not acceptable. In the circumstances, when the enquiry officer had referred to the evidences of these witnesses and after analysing the same has come to the conclusion/guilt, which conclusion was accepted by the disciplinary authority after a proper re-appraisal of the entire evidence, it will not be proper for this Tribunal to interfere with the findings.

4. The counsel of the applicant submitted that at any rate the penalty that has been imposed is disproportionate to the offence with which the applicant is charged. Though it may appear to be so, when the ^M nature of the penalties which can be imposed upon the ^{an}

Extra Departmental Agent is analysed, the submission becomes unacceptable. In view of the peculiar service conditions of the Extra Departmental Agents, there is no scope for the imposition of lesser penalties as contemplated by the CCS (CC&A) Rules. The Extra Departmental Agents are not appointed on any specific scale of pay so as to make it possible to impose penalties of withholding of increments. Nor is there any scope for promotion to a higher grade so as to warrant a penalty of reduction to a lower grade. As there is no provision for payment of pension, the question of imposing a penalty of compulsory retirement also does not arise. Evidently, it is ^{after} taking note of these that rule 7 of the Rules provides only three categories of penalties of which the first is recovery of pecuniary loss from ~~allowancee~~. That can be had only in a case where pecuniary loss to the government is caused by negligence or fraud on the part of the Extra Departmental Agent. The two other penalties are removal from service and dismissal from service. It is provided that the former shall not be a disqualification for future employment while the latter shall ordinarily be a disqualification for such an employment. In the instant case, the penalty that has been imposed upon the applicant is only the lesser penalty of removal from service. We make it clear that the imposition of the said penalty shall not be a disqualification for future employment.

5. It follows that there is no merit in the application. It is accordingly dismissed.

P. Srinivasan
(P. Srinivasan)
Administrative Member
4.5.1988

G. Sreedharan Nair
(G. Sreedharan Nair)
Judicial Member
4.5.1988

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