

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.22/2012

Dated, this the 11th day of April 2013

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

K.Appukkuttan, S/o Keerankutty,
Ex.GDSMD, Karattuparamba, Feroke College-673632.

Applicant.

(By Advocate Mr.Sreeraj)

Versus

1 The Manager, National Speed Post Centre,
Kozhikode - 673001.

2 The Sr.Superintendent of Post Offices,
Kozhikode - 673001. ...Respondents

(By Advocate Mr.Thomas Mathew Nellimootttil)

This application having been heard on 13.3.2013, the Tribunal delivered the following :-

ORDER

HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is aggrieved by the penalty order dated 31.12.2010 issued by the 1st respondent removing him from employment.

2 The applicant avers that while he was working as GDSMD Karattuparamba he was put off duty and proceeded against under Rule 10 of GDS (Conduct and Employment) Rules 2001 on three articles of charges. As per the articles of charges he violated Rule 127(1) and Rule 129(1)&(2) of the Postal Manual Volume VI (Part III) thereby he failed to maintain absolute integrity and devotion to duty as required under Rule 21 of the

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GDS(Conduct & Employment) Rules, 2001. It is alleged that he failed to effect correct delivery of ordinary letter and ordinary Meghdoth Post Card to the addressee. The applicant denied the allegations in his explanation addressed to the 1st respondent. The 1st respondent was not satisfied with the reply and decided to hold an inquiry. On completion of inquiry the applicant submitted his written statement of defence. Thereafter he received the Inquiry report with the finding that the Article 1&3 of the charges were proved against the applicant and that Article 2 of the charges was not proved. On receipt of the copy of enquiry report he submitted a representation seeking exoneration of the charges. It is averred that there is no evidence warranting the finding that he is guilty of any of the charges levelled against him in the Memo of charges. He further averred that no article was seized from his residence. It is contended that the number of articles shown as seized in the Memo of charges differed from the number of articles shown in the inventory. This fact was not taken into consideration when the Disciplinary Authority issued the penalty order removing him from service. The respondents have only proved an admitted fact on his part that appropriate remarks for non-delivery of mail for the period in question were not made by him. According to the applicant the punishment of removal from service is too harsh and has pushed his family into abject poverty. Hence he prays for a direction to the respondents to reinstate him in service with effect from the date on which he was put off from duty and to grant him all consequential benefits.

3 The respondents have contested the O.A and filed reply statement. They have submitted that the applicant while working as GDSMD, Karattuparamba was put off duty w.e.f 17.10.2008 by the Assistant Superintendent of Posts, Calicut South Sub Division for unsatisfactory performance in delivery of mail. Disciplinary action under Rule 10 of the GDS (Conduct & Employment) Rules, 2001 was initiated against the applicant. Charge sheet was issued on 6.3.2009. Inquiry Officer was appointed and

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inquiry report was submitted. The Inquiring authority held charges I&III as proved and charge II as not proved. It is submitted that as per S-4, the applicant has admitted that undelivered letters were seized by SW-I from his house. It is further stated that the difference in the number of articles seized as per charge sheet and S-1 will not reduce the gravity of his misdemeanor. It is further submitted that the applicant himself had stated that he attempted the delivery of the article on 13.10.2008, 14.10.2008, 15.10.2008, 16.10.2008 but he had not recorded the remarks on the reverse of the letters. As such he had failed to follow the prescribed rules. Therefore the applicant was placed under put off duty with effect from 17.10.2008. He was charge sheeted under Rule 10 of GDS (Conduct & Employment) Rule 2001. On conclusion of the inquiry, the Inquiry Authority submitted his report holding the applicant guilty of the charges. As a consequence the applicant was removed from employment. The punishment order was issued after careful consideration of the report and other connected records. The applicant submitted Appeal to the 2nd respondent. The Sr.Superintendent of Post Offices, Calicut, disposed of the appeal confirming the punishment awarded by the disciplinary authority. The respondents produced a copy of the mass petition dated 10.11.2010 by the residents of the villages under the Branch Post Office against the applicant and a copy of a report in Malayala Manorama daily dated 14.11.2010 protesting against the reinstatement of the applicant at Annx.R(a) and R(b). These documents would reveal that the public in the locality are not happy with the performance of the applicant.

4 The applicant filed rejoinder reiterating the facts stated in the O.A. He further submitted that the alleged search and seizure were illegal and there was no disinterested witnesses except the officers of the department. The inventory list was prepared at the Branch Post Office and this was not signed by any independent witness. The letters were planted at the house of the applicant and he was made a scape goat. The alleged



admission of the applicant will not stand the test of law. The documents produced alongwith the reply are all extraneous materials and the findings against him were arrived at on the basis of such materials.

5 Additional reply was filed by the respondents. It is submitted that the penalty order was issued after careful consideration of the inquiry report as also the records of the case by the disciplinary authority and after affording an opportunity of hearing to the applicant.

6 We have heard the learned counsel for the parties and perused the record.

7 The undisputed fact is the failure on the part of the applicant to discharge his duties satisfactorily which resulted in disciplinary proceedings under Rule 10 of the GDS (Conduct & Employment) Rules, 2001 being initiated against him. During the inquiry the applicant admitted that the undelivered letters were seized by SW-I from his house. The Inquiring authority in its report held charges I&III as proved and charge II as not proved. The contention of the applicant is that the alleged search and seizure were illegal and there was no impartial witness except the officers of the department and that the letters were planted purposefully in the house of the applicant and he was made a scape goat, cannot be a ground to cover up his negligence to perform his assigned duty to the satisfaction of the public. In the inquiry it was proved that the applicant violated Rule 127 (1) and Rule 129(1)&(2) of the Postal Manual Volume VI (Part III) and thereby he failed to maintain absolute integrity and devotion to duty as required under Rule 21 of the GDS(Conduct & Employment) Rules, 2001. In their reply the respondents submitted that the applicant himself had conceded that he attempted the delivery of the article on 13.10.2008, 14.10.2008, 15.10.2008, 16.10.2008 but he had not recorded the remarks for nondelivery on the reverse of the article as per rules. As such he had failed to follow the prescribed rules. They invited our attention to the mass petition dated 10.11.2010 against the applicant and the news in Malayala

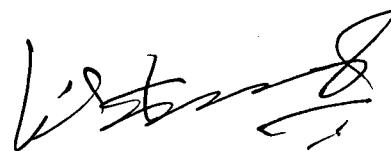


Manorama daily dated 14.11.2010 and submitted that the documents itself would reveal that the public in the locality protested against any move on the part of the administration to reinstate him in service. So the respondent cannot be faulted for meting out the severe punishment of removal. The enquiry and disciplinary proceedings were conducted, in accordance with the prescribed Rules. No illegality is established. Moreover, only the people in villages depend on the post offices for their vital communication needs as the digital means of communication are not easily available to them. There is no reason whatsoever for a highly subsidised village branch post office or any post office for that matter to exist, if the needs and aspirations of the customers are not met. Therefore, in our considered opinion there is no room for judicial intervention.

8 In view of the foregoing, the Original Application lacks merit and is dismissed. No costs.

(Dated 11th April 2013)


K.NOORJEHAN
ADMINISTRATIVE MEMBER
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Dr.K.B.S.RAJAN
JUDICIAL MEMBER