

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.220/2000

Friday, this the 26th day of April, 2002.

CORAM

HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR K.V. SACHIDANANDAN, JUDICIAL MEMBER

K.P. Kuruvilla,
Ex-EDBPM, Kallamala,
Residing at Karinkattil House,
P.O. Kallamala, Via. Mannarkkad,
Palakkad District.

Applicant

[By Advocate Mr M.V. Bose]

Vs.

1. Union of India represented by
the Secretary to Government,
Ministry of Post and Telegraph,
New Delhi.
2. The Post Master General,
Northern Region,
Calicut-11.
3. The Superintendent of Post Offices,
Ottappalam Division,
Ottappalam.

Respondents

[By Advocate Mr PMM Najeeb Khan, ACGSC]

The application having been heard on 26.2.2002, the
Tribunal delivered the following order on 26.4.2002.

O R D E R

HON'BLE MR.K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant has got 23 years' of service as Extra
Departmental Branch Post Master (ED Branch Post Master, for
short). While he was working as ED Branch Post Master at
Kallamala Branch Post Office, he was charge sheeted by the 3rd
respondent and placed him under put-off duty pending inquiry as
per Memo dated 21.7.97 (Annexure A-I) by which the charges
levelled against him was that he failed to follow Rule 10 while
making delivery of three registered letters. Rule 10 deals
with the procedure to be followed in delivery of registered
letters which is reproduced below:



"Rule 10. Responsibility for correct delivery of articles and payment of money orders:-

(i) Branch Postmasters and their postman and Village Postman and extra-departmental delivery agent are responsible for the correct delivery of all articles and the correct payment of all money orders delivered or paid by them. To all cases of doubt the branch postmaster or postman or Village postman or extra departmental delivery agent should satisfy himself as to the addressees or payees identity by making proper inquiries before delivering the article or paying the money order.

(ii) In the case of uninsured registered articles of the letter or parcel mail, if the addressee is not known to the branch postmaster, postman or village postman or extra departmental delivery agent, delivery should be made in the presence of a respectable witness residing in the locality, whose name should be noted on the receipt. In the case of insured articles and money orders for a person unknown to the branch postmaster or postman or village postman or extra departmental delivery agent the same procedure should be followed, but the witness in whose presence delivery or payment is made must be able to identify the addressee or payee.

NOTE - The instructions contained in this rule should be followed even in cases where a person claiming delivery of an article at the post office produces the intimation or any other document relating to the article purporting to be signed by the addressee. For detailed instructions as to the identification of the payee, see rule 109."

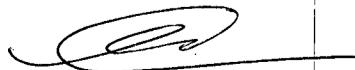
2. Thus, an inquiry was conducted under Rule 8 of the ED Agents (Conduct and Service) Rules, 1964, and five prosecution witnesses were examined, but the Inquiry Authority came to a different finding 'contrary to the facts proved in the inquiry'. The 3rd respondent who is the Lower Disciplinary Authority ought to have found that Rule 10(1) and (2) of Branch Office Rules are empowered to effect delivery of the registered letters (uninsured), if the addressees are known to him. Rule 10 (1) and (2) which directs proper inquiries by the Branch Postmaster only when there is doubt about the identity. Shri M.P. Nirmalkumar SDI, Pattambi, who conducted the preliminary investigation was examined as P W-1 on 16.6.98 by the Inquiry Authority who deposed that 'one cannot say that the registered



letters in question contained passport or not'. Further he said that 'all the records he handed over after investigation are not being produced by the inquiry authority.' The inquiry authority found that all charges were proved as per Inquiry Report dated 27.3.99 (Annexure A-II) in which the proposal for punishment is lacking. The applicant filed a representation dated 5.4.99 (Annexure A-III) before the 3rd respondent requesting to cancel his suspension and reinstate him in service. By order dated 14.6.99 (Annexure A-IV) the 3rd respondent removed him from service with immediate effect. He preferred an appeal before the 2nd respondent on 19.7.99 (Annexure A-V). However, the Appellate Authority rejected the appeal as per order dated 6.12.99 (Annexure A-VI). Aggrieved by Annexure A-IV and A-VI orders, the applicant filed this Application under Section 19 of the Administrative Tribunals Act of 1985 seeking the following reliefs:

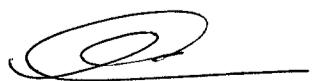
1. To call the entire records leading to the issuance of Annexure A-IV and A-VI,
2. To quash the removal of the applicant from service as Ordered in Annexure A-IV and A-VI,
3. To direct the respondents to retain the applicant in service,
4. To direct the respondent, to treat the Off-duty period as Service and to pay full salary for the period and treat the period for all other service benefits' and
5. To issue such further or other orders or directions as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. Respondents have filed a reply statement wherein it is contended that the District Superintendent of Police (DSP), Palakkad as per D.O. letter dated 28.12.96 reported to the Senior Superintendent of Post Offices, Palakkad Division that forgery of Passport and Visa documents are prevailing in Attapadi area and the letters to this effect are dated 12/1996 (Annexure R-1) and 13.3.1997 (Annexure R-2) and the 3rd



respondent was informed of the matter encloising therewith an extract of the inquiry report of the D.S.P, Palakkad, regarding delivery of passports. Immediately an inquiry was ordered and prima facie it was established a case of irregular and fraudulent delivery of registered letters containing passports exists at Kallamala and Kalkandy Branch Post Offices situated in Attapadi area and some of the departmental officials viz., K.P. Kuruvilla, BPM, K.N. Prabhakaran, EDDA, and P.M. Mathai, EDDA were involved in the racket and they were placed under put off duty from 2.4.97 and finally having been found them guilty, they were removed from service.

4. The applicant denied the charges and hence a full fledged inquiry was held as per Article 311(2) of the Constitution of India. He had utilized all the opportunities lawfully available to him and rules and procedures have been strictly followed by the 3rd respondent that would have been adopted in a domestic inquiry matter. The order of the appellate authority and the order of removal from service against which he preferred an appeal, was also rejected. The finding against the applicant was grave and serious dereliction of duty and irregularities on his part resulting in failure to maintain absolute integrity and devotion to duty was the reasons for his removal from service as envisaged in Rule 17 of ED Agents (Conduct and Service) Rules, 1964. The sender of the Passport, i.e., the Passport Officer used to print on the covers containing Passports that the registered articles containing Passport should only be delivered to the addressees themselves. Failure on the part of the applicant to follow the Rules resulted in delivery of Passports to persons of fictitious address who managed to get the passports issued fraudulently. The applicant had acted in collusion with one Kochukrishnan, Police Constable in the delivery of such



Registered letters containing Passports to factitious addressees. His dereliction of duty and failure to maintain absolute integrity and devotion to duty has resulted the delivery of passports to fictitious addresses, who thereafter could not be traced out. Since the applicant did not request for the examination of Kochukrishnan, the Police Constable as a state witness, because the documents otherwise available was sufficient to prove the charges. The applicant has no authority to deliver registered letters at window to persons not known to him or with fictitious address and he should have been delivered the same to the addressee alone and his action resulted to deliver the passport to fictitious addressees. A reasonable opportunity was given to him to defend the case and he has availed of the same. The Disciplinary Authority considered the plea of the applicant before issuance of Annexure A-IV orders. There is no violation of any rules prescribed or denial of natural justice as alleged in the application. The punishment awarded is to commensurate with the offence committed by the applicant. Annexure A-V appeal was rejected by the competent authority as per Annexure A-VI order and by A-IV speaking order he was removed from service following the rules and procedures. There is no illegality as the punishment was on proven charges. The applicant has not submitted a representation and not exhausted all channels of departmental remedy as provided in Rule 16 of ED Agents (Conduct and Service) Rules, 1964 and hence the O.A. is devoid of any merit and to be dismissed.

5. The Articles of charges framed against the applicant are as follows:

"Article-I

That the said Shri K.P. Kuruvilla while working as BPM, Kallamala on 5.10.96 delivered RL No.896 addressed to Mohammed Ibrahim, Mattayil House, Kallamala to a



person not known to him and not a resident within the delivery area of Kallamala BO. It is therefore alleged that Shri K.P. Kuruvilla has failed to observe Rule 10 of Rules for Branch Offices (Sixth edition) and thereby shown lack of absolute integrity and devotion to duty as envisaged in Rule 17 of ED Agents (Service and Conduct) Rules, 1964.

Article-II

That the said Shri K.P. Kuruvilla while working as BPM, Kallamala on 11.9.96, delivered RL No.3485 addressed to Ahamed, Puthiyapurayil, Kallamala to a person not known to him and who is not a resident within the delivery area of Kallamala. It is therefore alleged that Shri K.P. Kuruvilla has failed to observe Rule 10 of Rules for Branch Offices (Sixth edn) and thereby failed to maintain absolute integrity and devotion to duty as envisaged in Rule 17 of ED Agents (Service and Conduct) Rules, 1964.

Article-III

That the said Shri K.P. Kuruvilla while working as BPM, Kallamala on 2.9.96 delivered RL No.1947 addressed to Shri Abdul Rahiman, Parakkal, Kallamala to a person not known to him and who is not a resident within the delivery area of Kallamala BO. It is therefore, alleged that Shri K.P. Kuruvilla has failed to observe Rule 10 of Rules for Branch Office (sixth edn) and thereby shown lack of absolute integrity and devotion to duty as envisaged in Rule 17 of P&T ED Agents (Conduct and Service) Rules, 1964."

6. The commutation of misconduct/misbehaviour in support of the request, charges were also framed against the applicant.
7. We have heard the counsel for the parties and gone through the relevant records placed on record.
8. Learned counsel for the applicant argued that the inquiry was not conducted in accordance with the rules. The findings are not based on evidence as the penalty awarded is unduly harsh and therefore, liable to be quashed.
9. On perusal of the report and orders of the disciplinary / appellate authorities it is evidently clear that they have applied their mind in coming to such conclusion because meticulous evidence has been perused which is reflected in these orders. From the records it is also clear that ample



opportunities were given to the applicant in defending the case. The principle of natural justice has been applied and therefore it cannot be said that the proceedings are vitiated in any manner and rules not applied. Apart from that cogent and corroborated evidence has been brought on record and based on that evidence the authorities came to the conclusion that there is no perversity in the findings of the authorities which is in conformity with the gravity of the offence. The question to be looked into by this Tribunal whether the proceedings of disciplinary/appellate authorities are justified and the interference of this Tribunal is called for.

10. It is well settled proposition of law that Court, or for that matter, this Tribunal, has no authority to re-appreciate the evidence. The Tribunal cannot sit as a Court of appeal over the decision based on the findings of the competent authority in disciplinary proceedings. The celebrated case on the point is B.C. Chaturvedi Vs. Union of India and others, (1995) 6 SCC 749, preceded by the earlier decisions in the case of State of T.N. Vs. T.V. Venugopalan (1994) 6 SCC 302, Union of India Vs. Upendra Singh (1994) 3 SCC 357 and Government of T.N. Vs. A. Rajapandian (1995) 1 SCC 216. In a subsequent decision in the case of State of T.N. and another Vs. S. Subramaniam (1996) 7 SCC 509, it was observed that it is settled law that the Tribunal has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees. It is equally settled law that technical rules of evidence have no application to the disciplinary proceedings and the authority is to consider the material on record. In judicial review, the Court or the Tribunal has no power to trench on the jurisdiction to re-appreciate the evidence and to arrive at its own conclusion. This is meant to ensure that the



delinquent receives fair treatment and not ensure that the conclusion which the authority reaches is necessarily correct in the view of the Court or the Tribunal. This is also reiterated by the decision of the Apex Court in Government of A.P Vs Ashok Kumar, 1997 (5) SCC 478 where it held that the Tribunal has no power to re-appreciate the evidence and give its own conclusion. It is further held by the Apex Court in Commissioner and Secretary to the Government and others Vs. C. Shanmugham, (1998) 2 SCC 394 that the Tribunal cannot sit as a court of appeal. In short, the Tribunal cannot re-appreciate the evidence and in the instant case the order of punishment passed by the Disciplinary Authority rest on proper ground and the punishment inflicted is in terms of the gravity of the offence. The authorities have specifically dealt with each and every points raised by the applicant and the respondents had also applied their mind while considering the case and came to the proper conclusion. In the light of what is stated above, we find that the orders imposing the penalty of removal from service of the applicant passed by the disciplinary/appellate authorities which are under challenge does not warrant any interference by this Tribunal.

11. This Original Application is, therefore, dismissed as devoid of any merit and there will be no order as to costs.

Dated the 26th of April, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

P.

A P P E N D I X

Applicant's Annexures:

1. A-I : True copy of Memo dated 21.7.97 from the Superintendent of Post Offices, Ottapalam.
2. A-II : True copy of the Enquiry Report dated 27.3.99 by C.Unnikrishnan, Asst. Superintendent of Post Offices, Ottapalam.
3. A-III: True copy of the representation dated 5.4.99 by Applicant to 2nd respondent.
4. A-IV : True copy of order of removal dated 14.6.99 of the 3rd respondent.
5. A-V : True copy of the Appeal before the 2nd respondent by Applicant dated 19.7.99.
6. A-VI : True copy of order of the Appellate Authority dated 6.12.99 Memo No.Staff/30-17/9.

Respondents' Annexures:

1. R-1: Letter issued by Supdt. of Police, Palakkad No.Do No.58332/Camp/96.P, dated /12/1996.
2. R-2: Letter dated 13.3.97 by District Supdt of Police with regard to the enquiry report.

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30.4.02