

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO.221/2007

Dated this the 25th day of February, 2010

C O R A M

HON'BLE MR. JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE SMT. K. NOORJEHAN, ADMINISTRATIVE MEMBER

P. Raveendran S/o Govindan Nair
Pazhampallath House
S.N. Puram Village
Kodungallur Taluk
Thrissur

Applicant

By Advocate Mr. V.M. Krishnakumar & Biju Martin

Vs

- 1 Union of India represented by
Director General of Posts
New Delhi.
- 2 The Chief Postmaster General
Department of Posts
Kerala Circle
Thiruvananthapuram.
- 3 The Postmaster General
Central Region, Kochi
- 4 The Superintendent of Post Offices
Office of the Superintendent of Post Offices
Irinjalakuda Division, Irinjalakuda
- 5 The Assistant Superintendent of Post Offices
Irinjalakuda Division
Irinjalakuda

..Respondents.

By Advocate Mrs K. Girija

The Application having been listed on 15.2.2010 the Tribunal on the same day delivered the following:

ORDER

HON'BLE SMT. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant while working as Extra Departmental Delivery Agent Mail Carrier, Chakkarpadom Post Office under Kodungallur Sub Division during 1996-97, departmental proceedings were initiated against him for failure to effect delivery of registered letters to the addressees, instead were fraudulently delivered to persons other than the addressees. The applicant denied the charges, an inquiry was conducted in which he was found guilty of all the charges. The DA imposed the punishment of removal from service (A-1). The applicant preferred appeal which was dismissed. Simultaneously, the department had made a police complaint against him for the very same offence. The police registered a criminal case Crime NO. 320/2000 which culminated in the acquittal of the applicant by the Judicial First Class Magistrate Court, Kodungallur (A-3). The applicant is seeking reinstatement in service with back wages and consequential benefits. The main grounds urged are that the appellate authority rejected his appeal by a mechanical order, the disciplinary authority was not appointed under the relevant provisions, there was no complaint from the sender of the registered letter, the testimonies of SW-3 has not been considered in the right perspective, the DA has simply agreed with the findings of the Inquiry Authority, the applicant has undergone criminal prosecution for the same offence, the representation at A-4

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has been considered without application of mind, the findings of the Inquiry authority are not based on valid evidence and the DA and the AA were prejudiced against the applicant.

2 The respondents filed reply statement denying all the averments in the O.A. They submitted that disciplinary proceedings were initiated against the applicant for alleged fraudulent delivery of registered letters in contravention of the rules and by falsifying post office records. In the investigation it was revealed that those letters contained passports and fraudulent delivery of the same affects the security of the State. On the basis of the evidence adduced in the enquiry he was found guilty of charges and was removed from service. The AA after going through the entire records applied his mind properly on the facts and evidences adduced in the inquiry arrived at an independent conclusion that there was no irregularity in the conduct of the inquiry and punishment awarded is commensurate with the gravity of offence. They further stated that the criminal case was on different set of charges

3 Today when the O.A was taken up for hearing neither the applicant nor his counsel was present.

4 We have perused the pleadings and the judgment of the Apex Court relied on by the respondents.

5 The respondents have relied on the judgments of the Apex Court in Suresh Pathrella Vs. Oriental Bank of Commerce, (2006) 6 SCC 5753, R.S. Saini Vs. State of Punjab and Others (1999(8) SCC 90) and

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Bank of India and another V. Degala Suryanarayana (JT 199(4)SC 489).

6 The Apex Court in Suresh Pathrella Vs. Oriental Bank of Commerce, (2006) 6 SCC 5753 held as follows:

"In our view the findings recorded by the learned Single Judge are fallacious. This Court has taken the view consistently that acquittal in a criminal case would be no bar for drawing up a disciplinary proceeding against the delinquent officer. It is well settled principle of law that the yardstick and standard of proof in a criminal case is different from the disciplinary proceeding. While the standard of proof in a criminal case is a proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderence of probabilities."

It is a case of misappropriation of funds by Bank Chief Manager- The Apex Court rejected the argument of the appellant that no amount was lost to the Bank and held that it is not a ground to take lenient view for proved misconduct of the Bank Officer. The order of removal from service was not interfered with.

7 In R.S. Saini Vs. State of Punjab and Others (1999(8) SCC 90) the Apex Court held that

"the Inquiry Authority is the sole judge of facts and so long as there is some legal evidence to substantiate the findings adequacy or reliability of the evidence is not a matter which can be permitted to be canvassed before the Courts in Writ proceedings."

8 In Bank of India and another V. Degala Suryanarayana (JT 199(4)SC 489) the Apex Court held that

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"Strict rules of evidences are not applicable to departmental inquiry proceedings, the only requirement of law is that the allegation against the delinquent officer must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding, upholding the grievance of the charge against the delinquent officer."

9 The respondents stated that the registered letters are documented at every stage of its passage and its final destination. The fact that the registered letters were entrusted to the applicant for delivery is not denied, but he could not prove its delivery to the right addresses and hence the charge against him that they were delivered to fictitious addresses. The witnesses produced by the applicant were not able to give adequate evidence to establish the existence of the addressees and the Branch Postmaster also disclaimed any knowledge of all the addressees except the Head Mistress of Perinjanam East UP School, Chakkarampadam PO whose statement was recorded and who gave evidence against the applicant regarding non-delivery of articles addressed to her, which was wrongly delivered to another person. It is therefore quite difficult to accept that the addressees of the registered letters and their families would have vanished from a village without leaving any trail, at least with their immediate neighbours.

10 The applicant has no case that the enquiry has been conducted without affording an opportunity to him or behind the back of the applicant thereby violating the principle of natural justice. The case of the applicant is that having been acquitted in the criminal case registered on the very same charges, he is entitled to be reinstated in service with all attendant benefits.

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11 In view of the law laid down by the Apex Court above, we do not see any merit in the O.A, it is accordingly dismissed. No costs.

Dated 25th February, 2010

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K. NOORJEHAN
ADMINISTRATIVE MEMBER

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JUSTICE K. THANKAPPAN
JUDICIAL MEMBER