

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 3 of 1998

Thursday, this the 31st day of August, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. V.K. MAJOTRA, ADMINISTRATIVE MEMBER

1. Gopalakrishna. N,
S/o Ramachandran,
Ex-Extra Departmental Branch Postmaster,
Bare, (Via) VDMA, Kasargode,
residing at Nelliyaadka House, Paniyal,
(Via) Bekal - 671 318,
Kasargode District. ...Applicant

By Advocate Mr. M.R. Rajendran Nair

Versus

1. The Superintendent of Post Office,
Kasargode.
2. The Director of Postal Services,
Northern Region, Calicut.
3. The Postmaster General,
Calicut.
4. Union of India, represented by the
Secretary to Government of India,
Ministry of Communications,
New Delhi. ...Respondents

By Advocate Mr. S. Radhakrishnan, ACGSC

The application having been heard on 31st August, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A1, A2 and A3 and to direct the respondents to reinstate him in service with full back wages treating the period for which he was kept out of service as duty.

2. While the applicant was working as Extra Departmental Branch Postmaster, Bare Branch Office was proceeded against under Rule 8 of the Posts and Telegraphs ED Agents (Conduct

and Services) Rules, 1964. After enquiry, the Disciplinary authority as per A1 imposed the penalty of dismissal from service on the applicant. Aggrieved by the same, he preferred an appeal and the Appellate authority as per A2 modified the punishment imposed on the applicant as removal from service. Against the order of the Appellate authority a revision was filed. The revision was rejected by the Revisional authority. The applicant says that there is no evidence against him warranting the punishment, that serious procedural irregularities were committed in the enquiry, that no reasonable opportunity was afforded to him to defend his case and that the penalty imposed is not in proportion to the gravity of charge proved.

3. Respondents resist the OA contending that the penalty of dismissal from service was imposed on the applicant only after conducting a detailed enquiry as prescribed in the rules and after affording a reasonable opportunity of being heard in respect of the charges. Evidence was also considered. At no stage the applicant or his assisting Government servant complained of any denial of reasonable opportunity to defend his case.

4. In A6, the applicant has admitted the first charge. Though there were two charges, only it was held by the Disciplinary authority that the first charge was proved and it was held that the second charge was not proved. So, as far as the first charge is concerned, it is admitted by the applicant.

5. With regard to the stand of the applicant that there is no evidence, it cannot be accepted for a moment. From the materials available it is clearly seen that there is evidence.

What is required in a disciplinary proceeding is some evidence. Apart from that there is an admission of the applicant also with regard to the first charge.

6. With regard to the ground raised by the applicant that there are serious procedural irregularities, nothing was specifically brought out to our notice and on going through the materials available, we do not find any procedural irregularity having been committed by the authority who conducted the enquiry against the applicant.

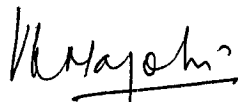
7. The case of the applicant that reasonable opportunity was denied to him cannot be accepted for a moment for the reason that the respondents in their reply statement have specifically stated that during the course of enquiry there was absolutely no grievance for the applicant or his assisting Government servant that reasonable opportunity was denied to the applicant. This stand of the respondents in the reply statement is not denied by the applicant by filing a rejoinder.

8. It was argued by the learned counsel appearing for the applicant that the punishment imposed on the applicant is out of proportion to the gravity of the offence proved and therefore this is a fit case for the Tribunal to be interfered with. The applicant was awarded the punishment of dismissal from service by the Disciplinary authority. It was later modified as removal from service by the Appellate authority and was confirmed by the Revisional authority. Except in cases where the punishment imposed is shocking the conscience of the Tribunal, the Tribunal cannot interfere with the punishment imposed by the authorities concerned. We are not inclined to accept that this is a case shocking the conscience

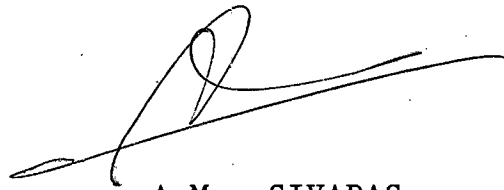
of the Tribunal. That being so, there is no ground to interfere with the punishment awarded by the departmental authorities.

9. Accordingly, the Original Application is dismissed.
No costs.

Thursday, this the 31st day of August, 2000



V.K. MAJOTRA
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexures referred to in this Order:

1. A1 True copy of the Memo No. F1/3/94-95 dated 29-12-95 issued by the 1st respondent to the applicant.
2. A2 True copy of the Memo No. Staff/30-8/96 dated 16-9-96 issued by the 2nd respondent to the applicant.
3. A3 True copy of the Memo No. Staff/38-3/3/96 dated 23-7-97 issued by the 3rd respondent to the applicant.
4. A6 True copy of the representation dated 18-12-95 submitted by the applicant to the 1st respondent.