

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No.263/2013

Monday, this the 11th day of November, 2013.

CORAM

Hon'ble Mr.Justice A.K.Basheer, Member (J)

Hon'ble Mr.Rudhra Gangadharan, Member (A)

**Ammini Varghese
Ex-GDS SPM, Chandanapally
Pathanamthitta-689 648.
Residing at Paramgamvilayil
Chandanapally, Kaipattoor Via
Pathanamthitta-689 648.**

Applicant

(By Advocate: Mr.Vishnu S.Chempazhanthiyil)

Versus

- 1. The Senior Superintendent of Post Offices
Kollam Postal Division
Kollam-691 001.**
- 2. The Director of Postal Services (HQs)
Office of the Chief Postmaster General
Kerala Circle, Thiruvananthapuram-695 033.**
- 3. Union of India represented by
The Chief Postmaster General, Kerala Circle
Thiruvananthapuram-695 033.**

Respondents

(By Advocate: Mr.M.K.Aboobacker, ACGSC)

The OA having been heard on 11th November, 2013, this Tribunal on the same day delivered the following order:-

ORDER

Hon'ble Mr.Rudhra Gangadharan, Member (A)

The applicant, who was working as Gramin Dak Sevak, Sub Post Master (GDS, SPM), Chandanapally, Pathanamthitta District is aggrieved by the penalty of removal from service pursuant to disciplinary proceedings conducted by the Department of Posts. She has sought the following reliefs:

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- a. Call for the records relating to Annexure A8 & A10 and set aside Annexure A8 & A10.
- b. Call for the records leading to the issue of Annexure A6 and set aside Annexure A6 enquiry report.
- c. Direct the respondents to reinstate the applicant with all consequential benefits.
- d. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
- e. Award the cost of these proceedings to the applicant.

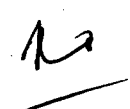
2. The applicant was appointed on 9.4.1987. While working as GDS SPM, Chandanapally, the applicant's office was inspected by surprise on 4.7.2007 by the Assistant Superintendent of Post Offices (ASP) Pathanamthitta Sub Division. He found that the applicant was not present and had unauthorizedly engaged an outsider to perform her duties. She had not submitted any leave application to the competent authority. He prepared an inventory of the cash and stamps, detected a shortfall, and obtained signatures of certain persons as witnesses. The applicant arrived at the office at 2 pm, and signed a statement in which she admitted to the charge of misappropriation. Further scrutiny led to the other irregularities being detected and disciplinary proceedings ensued. She was placed under 'put off duty' (POD) with effect from 09.07.2007 by the ASP, Pathanamthitta (Annexure A2). His action was ratified by Superintendent of Post Offices, Pathanamthitta on 16.07.2007 (Annexure A3). Since the latter was not the appointing officer of GDS rank personnel he was not competent to hold the inquiry; consequently the Senior Superintendent of Post Offices (SSPO) Kollam Division (1st respondent) was authorized by the Chief Post Master General, Kerala Circle, Thiruvananthapuram to function as 'Ad hoc Disciplinary Authority', vide Memo No.VIG/1-4/4/2006 on 14.12.2007 (Annexure A4).

3. Four articles of charge were framed against the applicant in memo No.SSP/ADA/2/09 dated 30.06.2009. These are summarized below.

Article I: That the applicant failed to produce a sum of Rs.31,797/- being part of the entire cash and stamp balance of Chandanapally EDSO before the ASP, Pathanamthitta Sub Division at the time of verification on 04.07.2007.

Article II: That the applicant allowed two withdrawals of Rs.2,000/- each on 25.07.05 and 26.07.05 from savings account No.890206 without the knowledge of the depositor.

Article III: That the applicant failed to entrust sufficient cash to the GDS MD for payment of certain money orders although there was sufficient cash in hand as per records.



Article IV: That the applicant showed false RD liability of Rs.37,575/- and requisitioned cash of Rs.15,000/- in the daily account dated 02.07.07.

4. The applicant submitted her explanation on 11.7.2009 denying the charges. The first respondent then ordered an inquiry consistent with Article 311 (1) of the Constitution. Altogether 11 sittings of the enquiry took place and 9 witnesses were examined. The applicant's nominee represented her as the Assisting Government Counsel during these deliberations. Seventeen documents were introduced on behalf of the prosecution and one on behalf of the applicant. The Inquiring Authority submitted his report on 28.03.2011 holding that all the charges levelled against the applicant stood proved (Annexure 6). A copy of the inquiry report was forwarded to the applicant on 04.04.2011 and the applicant submitted her written representation on 06.05.2011 (Annexure A7). Thereafter, the first respondent in his capacity as Disciplinary Authority imposed the penalty of removal from service on the applicant (Annexure A8). Aggrieved by this order, the applicant made an appeal to the Director of Postal Services (HQs), Office of the Chief Postmaster General, Kerala Circle, on 25.10.2011 (Annexure A9). The applicant was afforded a personal hearing on 02.04.12. The appeal was rejected and the punishment confirmed on 30/31 July 2012 (Annexure A10) by the competent authority.

5. The applicant has alleged that the charges were framed mala fide with intent to end her career and her means of livelihood and that the records were manipulated by the ASP, Pathanamthitta, in connivance with the witnesses who themselves were interested parties. She has alleged that she was more or less compelled to give a statement to the ASP admitting her offence, and that this statement cannot be accepted as an admission of her guilt. The applicant has alleged that she was placed under POD by the ASP, Pathanamthitta who is not the competent authority. She has claimed that the Inquiring Authority did not take cognizance of the evidence on record, that the enquiry report was prejudiced, and that the disciplinary authority mechanically endorsed the findings of the report without proper assessment of evidence. She has also given various reasons to explain away the various irregularities specified in the charges.

6. Judicial review is a review of the manner in which the decision is made. Its objective is to ensure that the individual receives fair treatment. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of



statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case (**B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749**).

7. We have heard the arguments of the learned counsel for both parties and carefully studied her application as well as all connected documents submitted to this Bench. We find that the respondents have meticulously adhered to established procedure and afforded the applicant every opportunity to defend herself. The Inquiring Authority has examined all relevant facts and gone into the applicant's explanation in detail before making his conclusions. The applicant has not been able to produce any evidence to establish any mala fides on the part of either officials or witnesses. The statement given before the ASP, Pathanamthitta, in the course of his surprise inspection, clearly shows her guilt, and the claim that this was not voluntarily given is only a ham-handed attempt to hide facts. Even the allegation that the action of placing her on POD was done by a officer not competent to do so is incorrect: Rule 12 of GDS (Conduct & Employment) Rules 2001, provides that in cases involving fraud or embezzlement, the GDS holding any post specified under the rules may be put off duty by the Inspector or ASP of the Sub Division under immediate intimation to the appointing authority. Moreover, as provided for vide Sub Rule 2 of the said Rules, the POD order was ratified by the SP, Pathanamthitta Division, within the specified time limit. We also find that the applicant's explanation in respect of the various charges do not hold water, and that at each stage the concerned authorities have come to their conclusions after due application of mind. On careful examination of the records we are unable accept any of the applicant's explanations, or to controvert the findings of the Inquiring Authority.

8. We have also carefully examined the question whether the quantum of punishment imposed was appropriate or not. It is settled law that the role of judicial review in departmental inquiry proceedings is limited. The Hon'ble Supreme Court has held in the case of **Union of India and another Vs. K.G.Sony 2006 SCC (L&S) 1568** that punishment being not one shocking to the conscience of the court, to interfere therewith is not called for and that judicial review is confined to the decision making process. It was held that the Court should not interfere with the administrative



decision unless it illogically suffers from procedural impropriety and that the Court should not go into the correctness of the points made by the administrator. It is also worth recalling that in the case of **Regional Manager, UPSRTC, Etawah vs. Hoti Lal (A No.5984 of 2000)**, the Apex Court has held that 'if the charged employee holds a position where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such case has to be dealt with iron hands". We therefore conclude that the impugned order of punishment imposed upon the applicant is fully commensurate with the gravity of the offences committed.

9. In view of the above position we hold that the applicant is not entitled to the relief sought for. The OA thus fails and is dismissed. No order as to costs.



(Rudhra Gangadharan)
Member (A)



(Justice A.K. Basheer)
Member (J)

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