

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.276/2000.

Monday this the 18th day of March 2002.

CORAM:

HON'BLE MR. A. V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T. N. T. NAYAR, ADMINISTRATIVE MEMBER

K.C.James, Kakkanattu (H),
Thiruvaliyad (PO), Ayalur (via),
Palakkad Dist., (EDBPM (removed from Service))
Tiruvaliyad B.O., Ayalur) Applicant

(By Advocate Shri MR Rajendran Nair)

vs.

1. The Senior Superintendent of Post Offices, Palakkad,
2. The Director of Postal Services, Kozhikode,
3. The Post Master General, North Eastern Region, Calicut.
4. Union of India represented by the Secretary to the Government of India, Ministry of Communications, New Delhi.

(By Advocate Shri R.Madanan Pillai, ACGSC)

The application having been heard on 18th March 2002 the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant while working as EDBPM, Thiruvaliad Branch Office was served with memorandum of charge A-1 dated 30.4.98. The following were the articles of charges.

"Article I:

That the said Shri K.C.James while working as ED BPM, Thiruvaliad BO in account with Ayalur SO has failed to account the monthly instalments at Rs.100/- each accepted by him on 3.10.96 and 9.12.96 for making deposit in

Tiruvaliad BO RD account No.1012981 of Smt. V.K.Padmajadevi on the respective dates violating Rule 133 of Rules for Branch Offices (Seventh Edition)(Reprint) and thereby failed to maintain absolute integrity and devotion to duty contravening Rule 17 of P&T ED Agents (Conduct and Service) Rules, 1964.

Article II:

That the said Shri KC James while working as ED BPM., Thiruvaliad BO has failed to account the monthly instalments of Rs.100/- each accepted by him on 03.10.96, 09.12.96, 11.01.97, 04.03.97, 22.04.97, 29.05.97, 09.06.97, 19.07.97, 06.08.97, 19.9.97, 07.10.97 and 03.11.97 for making deposit in Thiruvaliad BO RD account No.1013602 of Smt. VK Padmajadevi on the respective dates violating Rule 133 of Rules for Branch offices (Seventh Edition) (Reprint) and thereby failed to maintain ABSOLUTE INTEGRITY and devotion to duty contravening Rule 17 of P&T ED Agents (Conduct and Service) Rules, 1964.

Article III:

That the said Shri KC James while working as ED BPM, Thiruvaliad BO has failed to account the monthly instalment of Rs.125/- accepted by him on 03.11.97 for making deposit in Thiruvaliad PO RD account No.1014935 of Shri P.Balachandran on the said date violating Rule 133 of Rules for branch offices (Seventh edition) (Reprint) and thereby failed to maintain absolute integrity and devotion to duty contravening Rule 17 of P&T Agents (Conduct & Service) Rules, 1964."

2. The applicant submitted an explanation to the Memorandum of Charge A-2 in which he denies all the charges. An enquiry was held. The disciplinary authority viz., the first respondent gave the applicant a copy of the enquiry report and an opportunity to him to make a representation. After consideration of the representation submitted by the applicant, the first respondent held the applicant guilty of all the charges and imposed on him the penalty of removal from service by the impugned order dated 25.2.99 (A5). The applicant submitted an appeal which was dismissed by A-7 order dated 21.6.99. Aggrieved by that the applicant has filed this application challenging these two orders

and for a direction to the respondents to re-instate the applicant in service with full back wages and continuity of service declaring that the applicant was kept out of service illegally.

3. The grounds on which the applicant has challenged the order of the disciplinary authority is that the evidence on record does not support the finding of guilt. The learned counsel argued that the disciplinary authority has gone wrong in placing reliance on Exhibit S3 passbook because some pages of it had been substituted. A careful scrutiny of the order of the disciplinary authority would clearly establish that the finding that the applicant was guilty was arrived at on the basis of legal evidence available and adduced at the enquiry. The disciplinary authority has stated in A5 order as follows:-

I have however gone through the records and the pass books. The pass books do not have any sign of tampering except for Ext.S-3 i.e. pass book of account No.1012981 in which the page that should have been numbered 21 and 22 is apparently seen numbered as 19 and 20. But this calls for little probe in view of what is observed from the records produced as testified documents. There is no break in the serial order of the pages in other pass books. The chronological order is intact in all the Pass Books produced as documents. They bear the date stamp impressions of the Thiruvaliyad P.O. and the handwriting of the charged EDA in respect of the entries relating to the deposits in question. The charge is that the entries of deposits dtd. 3.10.96, 9.12.96, 11.1.97, 4.3.97, 22.4.97, 29.5.97, 9.6.97, 19.7.97, 6.8.97, 19.9.97, 7.10.97 and 3.11.97 are the ones relating to deposits accepted in certain RD accounts but not incorporated in post office accounts on these dates. Even if the argument of the charged EDA that this entries might be the one recorded in the pages of some other PBs., now substituted in the pass books in question in order to

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implicate him is accepted, then it is necessary that the said deposits should have been accounted for in the BO RD journal and other documents against some other RD accounts on the said dates. But truth can never be strangulated. It comes out with added vigour. There are no RD deposits accounted for in the records of the Thiruvaliyad PO on these dates at all. The BO RD journal does not show any deposits in any RD accounts on any of these dates. Then where did these alleged substituted pages come from? The substitution is seen made only in Ext.S3(RD PB 1012981). As observed above, this could not have come from another RD pass book. The possibility is substitution of blank pages from any other extraneous sources. The so called substituted pages bear the entries made by the charged EDA and the post office date stamps. Naturally the depositors, who had no complaints and who handed over the Pass books to the investigating officers undertaking the verification could not have done this, for there is not even plausible motive to the action, and for the fact that the said pages bear the entries made by the charged EDA with PO date stamps. For the same reason it could not have been done by the investigating officer or anyone else for that matter, except the charged EDA. The motive of the charged EDA is clear from the records. The only documented PB which had to be sent to HO for closure on maturity was that of account No.1012981. It should have been bearing entries of deposits, which had not been accounted for. So such a pass book cannot go to the HO., especially because there was a lump sum deposit of 8 instalments on 18.11.97 made by the charged EDA to make up for the unaccounted deposits in the account which should be reflected in the pass book. For accomplishing this the charged EDA himself has substituted the original pages with blank pages procured extraneously by the charged EDA and made entries relating to the deposits made and accounted for by him later (including the eight instalments of 18.11.97) and impressed the PO date stamps in such a way that the dates etc. are made unreadable/illegible deliberately. Thus here is clear motive for the charged EDA. And I am convinced that he himself has done this mischief. In fact there is no serious imputation in the charge sheet regarding the suspected substitution. The serious imputation is about the non-accounting of deposits. It is proved beyond doubt that the deposits accepted on 3.10.96, 9.12.96, 11.1.97, 4.3.97, 22.4.97, 29.5.97, 9.6.97, 19.7.97, 6.8.97, 19.9.97, 7.10.97 and 3.11.97 have gone unaccounted for."

5. The above extract clearly shows that the finding was based on evidence and we find no reason to interfere with the finding. The appellate order also is a well-reasoned order.

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6. In the light of what is stated above, we do not find any merit in this application. Therefore we dismiss the application, leaving the parties to suffer their costs.

Dated the 18th day of March, 2002

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T.N.T. NAYAR
ADMINISTRATIVE MEMBER

W. V. Haridasan
A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1 : True copy of the memo No.F1/4/97-98, dt.30.4.1998 issued by the 1st respondent to the applicant.
2. A-2 : True copy of the written brief dated 24.11.1998 submitted by the applicant to the Inquiry Officer.
3. A-2(a): True copy of the English Translation of the written brief dated 24.11.1998 submitted by the applicant to the Inquiry Officer.
4. A-3 : True copy of the letter No.F1/4/97-98 dt.22.1.99 issued by the 1st respondent to the applicant together with the Inquiry Report submitted by the Inquiry Authority.
5. A-4 : True copy of the representation dt.19.2.99 submitted by the applicant to the 1st respondent.
6. A-4(a): True copy of the English Translation of the representation dt.19.2.99 submitted by the applicant to the 1st respondent
7. A-5 : True copy of the Memo No.F1/4/97-98 dt.25.2.99 issued by the 1st respondent to the applicant.
8. A-6 : True copy of the appeal dated 7.4.1999 submitted by the applicant to the 2nd respondent.
9. A-7 : True copy of the order No.Staff/30-8/99 dt.21.6.1999 issued by the 3rd respondent to the applicant.
10. A-6(a): True copy of the English Translation of the appeal dt. 7.4.1999 submitted by the applicant to the 2nd respondent.

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