

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.302/99

Wednesday this the 7th day of July, 1999

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. B.N. BAHDUR, ADMINISTRATIVE MEMBER

K.N.Radhamani Amma,
W/o P.T.Bhaskaran Nair,
Postal Assistant, Mallappalli
West PO, Pin.689585 (Krishna Nivas,
Kunnanthanam PO, Via.
Thiruvalla-689 581).

...Applicant

(By Advocate Mr. M.R.Rajendran Nair (rep.))

Vs.

1. The Superintendent of Post Offices,
Thiruvalla Division, Thiruvalla.
2. The Assistant Superintendent of Post
Offices, Thiruvalla Sub Division,
Thiruvalla.
3. The Asst.Supt. of Post Offices,
Thiruvalla Postal Division,
Thiruvalla.
4. The Director of Postal Services (HQ)
Office of the Chief Post Master General,
Kerala Circle, Trivandrum.
5. Sri N.G.K.Nair, Superintedent o Post
Offices, Tiruvalla Division,
Tiruvalla.

...Respondents

(By Advocate Mr. Govindh K Bharathan, SCGSC (rep.))

The application having been heard on 7.7.1999
the Tribunal on the same day delivered the following:

O R D E R

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

This application is directed against the order
dated 27.7.98 (A2) of the Ist respondent directing the
applicant to credit Rs.4875/- with penal interest of
Rs.685.90 on the ground that he was personally responsible
for short credit of Rs.4875/- while in charge of the
S.B.Counter *.....* as also the Memorandum of Charges

dated 7.9.98 (A6) issued by the first respondent containing two articles of charges, one that the applicant short credited a sum of Rs.4875/- and article No.II that he had taken away certain records. The applicant has impugned these orders on various grounds. It has been inter alia contended that the impugned order A2 dated 27.7.98 calling upon the applicant to credit Rs. 5560.90 in all without actually arriving at a conclusion after holding a regular enquiry that the applicant was responsible for short credit is violative of the principles of natural justice. It is also alleged in the application that as the Ist respondent has taken a decision as reflected in A2 order that the applicant is guilty he could not have validly initiated disciplinary proceedings by Memorandum of Charges dated 7.9.98 (A6). It has also been alleged in the application that the first respondent is biased against the applicant. The first respondent has also been impleaded by name as respondent No.5.

2. Senior Central Government Standing Counsel appeared for Respondents 1 to 4 and a reply statement has been filed on behalf of these respondents. The allegation of malafides and deprival of principles of natural justice have been refuted. The issuance of A2 order directing the applicant to credit the amount of Rs.5560.90 is sought to be justified on the ground that as it was revealed in the investigation that the applicant was responsible for the short credit the said order was issued without prejudice to taking disciplinary proceedings against him and the issuance of the Memorandum of Charges by the first respondent is justified on the ground that no decision has been taken by the first respondent that the applicant is guilty.

3. We have carefully gone through the pleadings as also other materials which are placed on record and have heard the learned counsel for the applicant as also the Senior Central Government Standing Counsel. We see from A6 Memmorandum of Charges that the first Article of Charge is that the applicant short credited a sum of Rs.4875/- during the period from 8.5.96 to 30.4.97 while he was functioning as S.B.Coutner P.A. Thiruvalla Head Office. The applicant does not admit the charge to any extent. So whether there has been a short credit of Rs.4875/- during the said period whether the applicant was responsible for that and whether if the applicant was responsible it would amount to a misconduct etc. are matters which would be decided after the culmination of the enquiry instituted by the issuance of A6 Memmorandum of Charges. Before such an exercise we are of the considered view that it is improper and premature to call upon the applicant to credit Rs.4875/- and penal interest thereon. We are, therefore, of the view that the impugned order A2 has to be set aside.

4. Coming to the challenge to the enquiry initiated under A6 Memmorandum of Charges the ground taken by the applicant that as the Ist respondent had concluded that the applicant is responsible as has been stated in A2 order, the first respondent cannot exercise the powers of disciplinary authority, we find that this ground is baseless. Without coming to a tentative finding that the applicant is guilty of a misconduct no charge sheet can be validly issued. On the basis of the investigation the first respondent tentatively felt that the applicant was responsible for the short credit. That does not disentitle him from exercising his statutory function as a disciplinary authority. Therefore, we are of the view that

the challenge against the proceedings initiated in A6 will not stand.

5. In the light of what is stated above, we set aside the impugned order A2 while allowing the respondents 1 to 4 to proceed with the enquiry initiated under A6 Memorandum of Charges. We expect the respondents 1 to 4 to hold the enquiry in a fair manner giving the applicant a fair and reasonable opportunity to defend himself.

6. The application is disposed of as above. No order as to costs.

Dated the 7th day of July, 1999

B.N. Bahadur

B.N. BAHADUR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexures referred to in the order:

Annexure.A.2.: True copy of the letter No.SB/Obj/Stt.Part dated 27.7.98 issued by the Ist respondent to the applicant.

Annexure.A6: True copy of the Memorandum No.F.I/IV-2/98-99 dated 7.9.98 issued by the Ist respondent to the applicant.

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