

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.312/95

Monday, this the 24th day of July, 1995.

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K Abdunnassar,
Extra Departmental Delivery Agent,
(Removed from service),
Lakkidi P.O.

- Applicant

By Advocate Mr MR Rajendran Nair

Vs

1. NV Balan,
Sub Divisional Inspector(Postal),
Calicut North Division,
Calicut.(Adhoc appointing authority)
2. The Senior Superintendent of Post Offices,
Calicut Divison, Calicut.
3. AK Balan,
Inquiring Authority and Inspector
of Post Offices(Complaints and
Public Grievances)
Office of the Senior Superintendent of
Post Offices, Calicut.
4. Union of India represented by
Secretary to Government of India,
Department of Posts,
New Delhi.
5. The Post Master General,
Northern Region, Calicut. - Respondents

By Advocate Mr S Radhakrishnan, Additional Central Government
Standing Counsel(for R.2, 4 & 5)

The application having been heard on 24.7.1995 the
Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant was removed from service on two charges,
namely, that he "failed to handover office cash amounting to

Rs.2850/" and that he was "unauthorisedly absented from duty during the period from 8.9.1991 to 25.10.1991". Applicant admitted the charges at the stage of enquiry, and the statement made by him appears to be honest.

2. According to applicant, the cash amounting to Rs.2850/- remaining with him at the end of the day could not be returned to the office as the office was closed down by the time he returned from his work in the hilly terrains of his beat. He says that while travelling in a bus with the cash, he lost it. His absence from duty was out of fear of consequences, states applicant. When his sister made good the lost cash, he came back, says applicant.

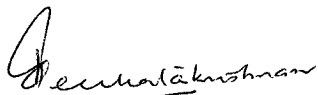
3. The charge stands established and the findings of fact cannot be challenged. But, there are facts which require notice. The foremost of them is that, there was no charge of misappropriation, but only of failure to return the cash. For that, there is a plausible explanation and the cash has been made good. The conduct of the applicant shows that he felt remorse about what had happened. We think that these aspects should enter consideration while deciding on the quantum of punishment. While serious offences cannot be treated lightly and consequences thereof rendered inconsequential, justice must be tempered with mercy. This we think is one such case. The loss was made good. His case of losing the money was very plausible and his admission of the charges suggests that he had been the victim of circumstances. We feel that the punishment imposed is unrelated to the nature of the offence, and this is a case attracting the rule in Union of India and others V Giriraj Sharma, AIR 1994 SC 215. We quash the order of removal from service and direct the

appellate authority to impose any other punishment which they consider appropriate. They may also keep him away from a post which involves transactions in money. They will also take into consideration the fact that applicant had been put under suspension(put off) as early as 1990-91 and long before the charge was framed. The appellate authority will pass appropriate orders in the matter within sixty days from today.

4. With these directions, we dispose of the application.

No costs.

Dated, the 24th July, 1995.



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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