

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.312/02

Wednesday this the 30th day of June 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

N.Vilasini,
W/o.R.Madhavan,
Ex-EDSPM, Karuvatta North PO,
Residing at : Kochu Parambil House,
Karuvatta North PO - 690 554.

Applicant

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

Versus

1. The Superintendent of Post Offices,
Alappuzha Division, Alappuzha-688 012.
2. The Director of Postal Services,
Central Region, Kochi - 682 016.
3. The Postmaster General,
Central Region, Kochi - 682 016.
4. Union of India represented by
its Secretary to Govt. of India,
Ministry of Communications,
Department of Posts,
New Delhi.

Respondents


(By Advocate Mr.P.M.M.Najeebkhan,ACGSC)

This application having been heard on 30th June 2004 the
Tribunal on the same day delivered the following :


O R D E R

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

The applicant Ex-EDSPM, Karuvatta North has filed this application challenging Annexure A-1 order dated 29.3.2000 of the 1st respondent imposing on her a penalty of removal from service, Annexure A-2 order dated 5.3.2001 of the 2nd respondent, appellate authority, dismissing her appeal and confirming the penalty as also Annexure A-3 order dated 21.2.2002 of the 3rd respondent upholding the revision. The facts of the case can be briefly stated as follows :




2. While the applicant was working as EDSPM, Karuvatta an inspection was made in the Sub Post Office and on 23.4.1997 it was found that a sum of Rs.17,737.85 in cash was not accounted for by the applicant, that on 16.4.1997 the applicant failed to entrust the money required for MO payment to the EDDAs and that on 17.4.1997 retained a sum of Rs.14,876.35 as cash balance showing a fictitious liability and by all these acts she had exhibited lack of integrity and devotion to duty. The charges having been denied by the applicant an enquiry was held. The Enquiry Officer submitted Annexure A-5 report holding that charge No.1 and No.3 were not established and that charge No.2 was established. The Disciplinary Authority intimated the applicant of its intention to disagree with the finding of the Enquiry Authority on charge No.1. The applicant submitted her explanation contending that none of the charges has been established. However, the Disciplinary Authority on consideration of the enquiry report, the material on record as also the representation of the applicant accepted the finding of the Enquiry Authority on charge No.2 and No.3 and disagreeing with the finding regarding charge No.1 found the applicant guilty of the charges and as a consequence imposed on the applicant the penalty of removal from service. Aggrieved by that the applicant submitted an appeal which was rejected, therefore, the applicant has filed this application. The main ground on which the applicant seeks to assail the impugned order is that the findings are not based on any evidence. The applicant seeks to set aside the impugned orders with consequential benefits. The applicant has also stated that on the very same allegation a criminal case was filed against the applicant in which he was acquitted.



Therefore the finding that the applicant was guilty is not sustainable, contends the applicant.

3. The respondents resist the claim of the applicant. They contend that the guilty of the applicant has been established beyond doubt and therefore there is no scope for interference.

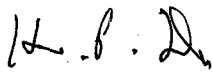
4. We have with meticulous care gone through the pleadings and materials placed on record. Learned counsel for the applicant mainly raised only two points, namely, that the finding that the applicant is guilty is not based on evidence and that since the Criminal Court acquitted the applicant on the charge of misappropriation, the charge No.1 cannot be held as established. We find that the finding of the Enquiry Authority that the charge No.1 was not established was the result of an erroneous understanding of the provisions of Rule 11 of Rules for Branch Offices and Rule 217 of the P & T Manual Vol.V. The notes under these two rules only permits the EDSPM/BPM to keep the amount safely at any place of his choice but the EDSPM/BPM is under obligation to produce the money as and when called upon by the inspecting officer. In this case it is clearly stated by the Disciplinary Authority in its order that the applicant failed to produce the money when called upon immediately and did not account for it. It is not disputed by the applicant that she did not hand over the entire money required for MO payment to the EDDAs. The explanation given is that she knew that the payees were not in station. It was the duty of the delivery agent to deliver the MO, and there was no reason for the applicant not to hand over the money. Since the applicant has been found guilty



of serious misconduct on the basis of convincing evidence we are of the considered view that there is no scope of interference.

5. In the light of what is stated above we do not find any merit in the application and dismiss the same leaving the parties to bear the costs.

(Dated the 30th day of June 2004)



H.P.DAS
ADMINISTRATIVE MEMBER

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A.V.HARIDASAN
VICE CHAIRMAN