

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 32/93

Thursday, this the 20th day of January, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI S.KASIPANDIAN, MEMBER(A)

P.Raghavan,
'Reenalayam', Kalliyadu PO,
Irikkur, Kannur Dist. .. Applicant

By Advocate Shri P.V.Mohanam.

V/s

1. The Superintendent of Post Offices,
Cannanore Division, Cannanore-1.
2. Director of Postal Services, Calicut.
3. Member (Personnel),
Postal Services Board,
Department of Posts,
New Delhi - 1.
4. Union of India, rep. by
Secretary, Min. of
Communications,
Sanchar Bhavan, New Delhi-1. .. Respondents

By Advocate Shri S.Krishnamoorthy, ACGSC.

ORDER

N.DHARMADAN

While functioning as a Postman at Cannanore Civil Station, Sub Office, the applicant was placed under suspension w.e.f. 16.8.86 for initiating disciplinary proceedings against him. Two charges were framed against him. They are extracted below:-

"Article 1:- That the said Sri P.Raghavan, Postman, Cannanore Civil Station, (Under suspension) while functioning as Postman, Cannanore Civil Station in the month of May, 1986, having been entrusted with money order No.6834 dated 16.5.86 for Rs.1000/- of Pakkal S.O., payable to Smt. Prabhashivan, Guruprabha, Talap, Cannanore-2 together with cash, along with other money orders, did not pay the said money order No.6834 dated 16.5.86 and the value of the said money order viz. Rs.1000/- to the said payee, Smt. Prabhashivan, but showed it as paid to the payee on 20.5.86 and returned the paid voucher to the Post Office and thereby he

failed to observe the provisions of Rule 706(2) and Rule 709(1) of Postal Manual Vol. VI, Part III and also failed to maintain absolute integrity exhibited lack of devotion to duty and acted in a manner unbecoming of a Government servant violating the provisions of Rule 3(1)(i)(ii) and (iii) of CCS (Conduct) Rules, 1964.

Article 2:- That the said Sri. P. Raghavan, Postman, Cannanore Civil Station (under suspension) while functioning as Postman, Cannanore Civil Station in July 1986 having been entrusted with Registered letter No.1738 of Dammam addressed to Smt. Prabhashivan, Guruprabha, Talap, Cannanore-2 on 3.7.86 and 4.7.86 did not deliver the same to the addressee on these days, even though the addressee was available in her residence, returned the registered letter with remarks "absent" on these days, in the delivery slips of the respective days but dnot on the Registered letter and thereby failed to observe the provisions of Rule 711(1) of Postal Manual Vol. VI Part III and exhibited lack of devotion to duty and acted in a manner unbecoming of a Govt. servant violating the provisions of Rule 3(1)(ii) and (iii) of CCS (Conduct) Rules, 1964."

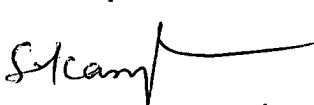
2. In the enquiry the applicant was found guilty and the disciplinary authority imposed a penalty of dismissal from service as per order dated 31.12.87. Appellate authority dismissed the appeal. He filed OA 629/88. It was allowed as per Annexure-II judgment on the technical ground of failure to serve copy of enquiry report. This Tribunal directed the Department to proceed against the applicant from the stage of submission of the enquiry report. Accordingly, the disciplinary proceedings were completed and he was penalised again as per Annexure-IV order dated 6th August, 1991 dismissing him from service. Appeal, Annexure-V, was dismissed as per Annexure-VI order.

3. Both these orders are under challenge in this case. The main contentions are (i) this is a case of no evidence and the grave punishment was imposed on the basis of assumptions alone, and (ii) the punishment is shockingly disproportionate to the gravity of the offence. It is so high that it does not commensurate with the gravity of the charges.

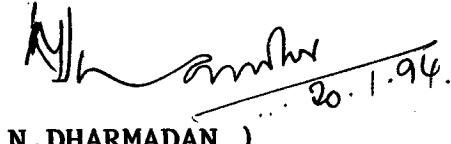
4. In the course of the arguments of the case, it is brought to our notice that the applicant has not exhausted the statutory remedy available under the Rule 29 of the CCS (CCA) Rules. Such an objection was strongly raised by the learned counsel for the respondents. Then the learned counsel for the applicant very fairly submitted that the applicant may be given an opportunity to file a revision against the impugned orders raising the two questions argued by him before this Tribunal. According to us, the points raised in this case can be considered by the statutory authorities for taking a lenient view. Under the above circumstances, there is nothing wrong in accepting the submission made by the learned counsel at the Bar so as to enable the applicant to file a revision under Rule 29 of CCS (CCA) Rules. In this view of the matter, the learned counsel for the applicant also submitted that the O.A. can be disposed of without going into the merits reserving the freedom of the applicant to file a revision.

5. Having heard the learned counsel on both sides, we are satisfied that this is a reasonable request which can be allowed. Accordingly, we dispose of the application without going into the merits, reserving the right of the applicant to file a revision against the impugned orders. If he files such a revision within three weeks from the date of receipt of a copy of this order, it shall be considered by the revisional authority, on merits, without raising any objection based on bar of limitation, particularly since the applicant has filed this O.A. in time.

6. The original application is disposed of as above. There will be no order as to costs.


(S. KASIPANDIAN)

MEMBER(A)


(N. DHARMADAN)

MEMBER(J)