

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 336 of 1995

Thursday, this the 25th day of July, 1996

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K.K. Kousallia, Ericaly House,
Muthullian, Cherpu P.O., Padinjattu Muri,
Formerly Extra Departmental Stamp Vendor,
Irinjalakkuda Head Post Office.

.. Applicant

By Advocate Mr Thomas John.

Vs

1. The Postmaster,
Irinjalakkuda Head Post Office,
Irinjalakkuda.
2. The Superintendent of Post Offices,
Irinjalakkuda.
3. The Postmaster General,
Central Region, Kochi.
4. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.

.. Respondents

By Advocate Mr P.R. Ramachandra Menon, Addl.CGSC.

The application having been heard on 25th July 1996,
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

An Extra Departmental Stamp Vendor who has
been removed from service, is before us challenging
A-15 order of the disciplinary authority and A-17
order of the Revisional Authority affirming A-15.
Broadly stated, the charges against applicant were
that she collected the value of stamps from different

persons, that she did not affix the stamps on the letters/ frank them, and that she retained the letters instead of transmitting them. The disciplinary authority considered the evidence of eight witnesses examined in support of the charges, confessional statements of applicant A-21 and A-22(enquiry),attendant circumstances and found the charges. These findings were upheld by the Revisional Authority after a detailed examination of the evidence.

2. Learned counsel for applicant who argued his case in great detail, submitted that the findings are bad as they were made in violation of the principles of natural justice. He submitted further that the confessional statements were obtained by coercion. He has urged further that withholding of documents like the franking machine register, nominal rolls and work distribution statements would raise an adverse inference against the conduct of the enquiry.

3. This Tribunal will not reappreciate the evidence or substitute its findings in place of the findings entered by the authorities on facts. Intervention would be justified, if only the findings are perverse or if they are made in contravention of the rules of principles of natural justice. In this backdrop, we will examine the contentions.

4. Though it is not our function to reappreciate evidence as already stated, we have read through the evidence to ascertain whether there is reliable evidence to sustain the charges. Witnesses Ganapriya, Jainamma, Wilson, Zainuddin and others pointedly speak about amounts being handed over to applicant by way of postage

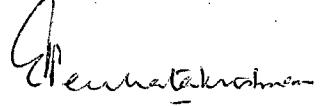
and related letters not being transmitted. Unfortunately for applicant, even her own witnesses, for example DW-4 Ramarajan, have endorsed the case of the department. The defence of applicant that she had nothing to do with the franking machine is belied by evidence to the effect that she used to sit at the franking machine and attend to it. It cannot be said that the finding was reached without evidence.

5. The confessional statements A-21 and A-22(enquiry) by applicant are sufficient to establish the charges. But according to learned counsel for applicant attendant circumstances point the finger of suspicion at the confessional statements. He would also submit that the confessional statements were obtained under duress. We are not prepared to accept these submissions. There is nothing to suggest that applicant was subjected to duress or coercion. She has sufficient experience of the working of the department, and the person who recorded the statements is not shown to have any overbearing aspect. The finding by the authority below that the confession is acceptable, is a reasonable finding.

6. Another circumstance which lends support to the case of the department, is the circumstance that applicant paid her half share of Rs 420.75 towards the value of stamps. A confessional statement without anything more, is sufficient to find the charges (See Additional District Magistrate (City) Agra Vs. Prabhakar Chaturvedi and another, (1996) 2 SCC 12 and State of Punjab and others Vs. Dr. Harbajan Singh Greasy, 1996 JT(5) SC 403.

7. The only other question relates to quantum of punishment. We may not be justified in saying that a punishment of removal imposed, in a case where public funds were misappropriated and public trust breached is shocking to conscience.
8. The application fails and is dismissed but without costs.

Dated the 25th July, 1996.


P V VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

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List of Annexures

1. Annexure A-15: A True copy of the Memo No.F1/1/90-91 dated 11-3-1993 issued by the 1st respondent to the applicant.
2. Annexure A-17: A true copy of the Memo No.ST/8-10/93 dated 17-2-1994 issued by the 3rd respondent to the applicant.