

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 336/2008

Wednesday this the 1st day of April, 2009.

C O R A M

**HON'BLE MR. GEPRGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

C. Prabhakaran
formerly GDS BPM, Moorkanad
Chankarath House, Moorkanad PO
Irinjalakuda-680 711 ..Applicant

By Advocate Mr. N. Nagaresh

Vs

- 1 Postmaster General
Central Region
Kochi-18
- 2 Director of Postal Services
Central Region
Kochi-18
- 3 Superintendent of Post Offices
Irinjalakuda Division
Irinjalakuda
- 4 T.K. Jacob
Asst. Superintendent of Post Offices
Inquiring Authority,
Irinjalakuda Sub Divisional
Irinjalakuda. ..Respondents

By Advocate Mr. T.P.M. Ibrahim Khan, SCGSC

The Application having been heard on 16.3.2009, the Tribunal delivered the following

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, a Gramin Dak Sevak Branch Post Master is challenging the penalty of removal from service.

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2 The short facts narrated by the applicant is that he entered service in 1983 and was appointed as GDS BPM, Moorkanad Branch Post Office in 1995. While so, he was put off duty on 3.5.2004. The 3rd respondent issued memorandum of charges against the applicant on 26.5.2004, put off duty was revoked on 11.8.2004. The Article of charges framed against the applicant are extracted below:

Article-1

Sri C. Prabhakaran while working as GDS BPM Moorkanad BO during the period from 4.9.95 to 2.5.2004 canvassed and diverted (1) RD Account for Rs. 100/- in the name of Smt. Elia Vareed Kuruthukulangara House PO Moorkanad (2) RD Account No. for Rs. 1050/- in the name of Smt. Omana Varghese Kuruthukulangara House, PO Moorkanad to his wife Smt. C. Swarnakumari MPKBY Aget, Karuvannur, instead of opening these RD accounts at Moorkanad PO and thereby failed to maintain absolute integrity and devotion to duty violating Rule 21 of Dept. Of Posts Gramin Dak Sevaks (Conduct and Employment) Rules, 2001.

Article-II

Sri C. Prabhakaran while working as GDSBPM, Moorkanad BO on 25.6.2004 refused to give statement to the Asst. Supdt. Of POs Irinjalakuda Sub division, Irinjalakuda on the irregularities noticed in the functioning of Moorkanad PO and thereby failed to maintain devotion to duty violating rule 21 of Dept. Of Posts Gramin Dak Sevaks (Conduct and Employment) Rules 2001.

Article-III

Sri C. Prabhakaran while working as BPM Moorkanad BO refused to accept RPLI premium from the month of 2/05 in respect of PPLI policy No. R-KL-KC-EA 48210 on 26.2.2005 and 28.2.2005 from the insurant and declined to make entries in the RPLI premium receipt book No.R-KL-KC-EA 48210 related to the credit of premium for the month of March 2004 in the name of Smt. Sanitha Jainuddin, Pallathuparambil House, Moorkanad presented by the insurant and quarrelled using indecent dialect on 28.2.2005 in the presence of the members of public who came for crediting telephone bills and thereby failed to maintain devotion to duty violating Rule 21, Dept. Of Posts Gramin Dak Sevaks (Conduct and Employment) Rules, 2001.

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3 The applicant denied the charges whereupon enquiry was ordered, the 4th respondent was appointed as Inquiry Authority. After the enquiry proceedings were over, applicant submitted written brief in defence. In the inquiry report it was concluded that Charge-II was proved, charge-III partly proved and charge-I not proved. The third respondent passed the order of removal of the applicant from service with immediate effect. Applicant submitted appeal and revision petition which were also dismissed. Hence he filed this O.A. on the grounds that the order of removal was passed without giving him a reasonable opportunity to defend his innocence, the refusal to produce the inspection report dated 16.4.2004 adversely affected his defence, the Inquiring Authority was biased, the Inquiring Authority divided charge No.III into three parts in order to hold the charge as proved, the appellate and revisional authorities failed to appreciate the relevance of the documents sought by the applicant, submission of the applicant that there was use of unparliamentary words has been wrongly taken by the authorities as admission of guilt by the applicant, rejection of request for production of specific documents, all the witnesses examined deposed that the applicant has not uttered any indecent or unparliamentary words, and that the applicant has 24 years unblemished service records. Hence he filed this O.A. to set aside the punishment of removal, appellate and revisional orders and for a declaration that he is entitled to continue in service and for disbursement of arrears of salary and allowances.

4 The respondents 1 to 3 filed reply statement opposing the averments in the O.A. They submitted that the Assistant Supdt. of Post Offices Irinjalakuda Sub Division who visited the Post office on 16.4.2004 to carry out annual inspection of the Post Office detected some serious irregularities. Enquiries made in this regard revealed that the irregularities were of very serious nature and the applicant was put off duty. They

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submitted that opportunities available as per the rules were provided to the applicant and there was no violation of principles of natural justice. The documents sought for by the applicant such as put off duty memo, the memo issued for revoking the put off duty, inspection report by the ASP etc. were personally addressed to the applicant and were readily available with him. The 5th letter was not connected with the applicant's enquiry. As regards allegation of the Inquiry authority putting incriminating questions to the witnesses, they submitted that the Inquiry Authority may recall, re-examine any witness at any time and may put any question to any witness to bring out the truth. However, the applicant did not make any submission of disagreement or bias petition addressed to his disciplinary authority during the inquiry. They further submitted that the appellate and revisional authorities passed orders only after discussing all the arguments advanced by the applicant in detail in his appeal and revision petition and judicially disposed of them after consulting the evidences available on record. The applicant has proved himself dishonest and disobedient by his action and the same have been established in the inquiry leaving no room for slightest doubt.

5 The applicant filed rejoinder stating that copy of the inspection report was not provided with a copy of the inquiry report even to peruse the same without which he could not give any explanation thereto. He submitted that he has never admitted to have used unparliamentary words and that the orders of the appellate and revisional authorities are to be set aside for non-application of mind.

6 We have heard learned counsel for the parties and perused the documents placed before us.

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7 The learned counsel for the applicant argued that the impugned orders of the Disciplinary, Appellate and Revisional Authorities are liable to be quashed and set aside on the main grounds of bias of the Inquiry Officer putting questions to the witnesses so as to fill up the lacuna in evidence, non-supply of documents asked for by him and non-application of mind by the appellate and revisional authorities.

8 The learned counsel for the respondents argued that the question of bias has never been raised by the applicant during the enquiry and that the documents asked for by the applicant were available with the charged employee, that the orders of the appellate and revisional authorities rejected the petitions of the applicant after considering all the points raised by him.

9 The fact that no bias petition was submitted during the inquiry supports the conclusion that there was no denial of opportunity. The allegation of bias against the Inquiry Officer is therefore, not tenable. The documents asked for were already with the applicant. He could have carried these documents while the enquiry was in process as the inspection report was in his custody. He was also unable to explain the points he wanted to establish by using these documents in the inquiry.

10 It is seen that the applicant reacted to the complaints in an aggressive way resulting in heated exchange of words in public which included unwelcome references to the gender of the complainant. The very purpose of Government providing an outlet for postal services where customers can access facilities conveniently and for a quality that meets with their aspirations will be defeated. No Postmaster is expected to argue loudly with a customer in public or use insensitive words with a lady at the post office counter. As rightly pointed out by the Appellate authority, the applicant has by his act of defiance towards his superior, his failure to

provide quick and efficient services at the counter, has tarnished the image of the postal department before the discerning public. In many villages when the post office is the sole representation of Government machinery, the Postmaster is expected to be tactful and mature and unfailingly courteous. The aggressive behaviour on the part of the petitioner happened as stated by the Disciplinary authority in spite of the various training sessions imparted to rural Postmasters to be customer friendly and to generate more revenue from the valuable customers.

11 We find that the Inquiry Authority in its report arrived at the conclusion that Article -I is not proved, Article -II is proved and Article -III is partly proved. The Disciplinary, Appellate and Revisional Authorities have elaborately discussed in detail the issues raised by the charged employee point by point and agreed with the conclusion of the Inquiry Authority. We do not find any reason to interfere with the punishment imposed on the applicant.

12 In this view of the matter, the Original Application lacks merit, is dismissed. No order as to costs.

Dated 1-4-2009.


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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GEORGE PARACKEN
JUDICIAL MEMBER