

Central Administrative Tribunal, Lucknow Bench, Lucknow
O.A. No. 372/2010

Reserved on 7.8.2014

Pronounced on 28/08/2014

Hon'ble Sri Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)

Vindhya Singh aged about 50 years son of late Sri Ram Singh resident of Village and Post office Firojpur, Mahdumi, Pargana and Tehsil Rudauli, District- Faizabad.

Applicant

By Advocate: Sri V.R.Chaubey

Versus

1. Union of India through Secretary, Department of Posts, New Delhi.
2. Chief Post master General, U.P.Civil, Lucknow.
3. Director of Postal Services (Head Office), Lucknow
4. Superintendent of Post Offices, Division Barabanki.
5. Deputy Regional Inspector of Posts, Sub Division, Ram Nagar, Barabanki.

Respondents

By Advocate: Sri Rajendra Singh

ORDER

By Sri Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act with the following reliefs:-

Wherefore, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to quash the appellate order which is impugned in this original application, passed by the appellate authority i.e. O.P. No.3 as contained in Annexure No.1 to the Compilation No.1 of this O.A. and further applicant may be directed to be reinstated by the opposite parties along with back wages in view of the substantial justice.

2. The brief facts of the case are that the applicant was initially appointed in the respondents organization. Subsequently, in 2006, an enquiry was conducted against the applicant and he was put off from duty vide order dated 20th Septemebr,2006. The applicant preferred the O.A. before this Tribunal and this Tribunal vide order dated 16th December,2009 disposed of the O.A. with a direction to the appellate

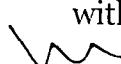
► authority to review the quantum of punishment imposed on the applicant after hearing the applicant. In pursuance thereof, the respondents have passed an order on 21.4.2010 and rejected the appeal of the applicant . Applicant feeling aggrieved by the said order, preferred the present O.A.

3. On behalf of the respondents, the detailed reply was filed and it was indicated by the respondents that the applicant was working as GDSBPM, Barabanki. During the year 2006, after receipt of a report from SPM, Rudauli, Barabanki regarding suspicious withdrawals from Account No.249915 standing in the name of Sri Praveen Kumar Mishra, an enquiry was conducted which revealed that the applicant fraudulently withdrew Rs. 1400/- from the said account by making forged signature of the depositor. As such, the applicant was proceeded under Rule 10 of GDS (Conduct and Employment) Rules 2001 and punishment of removal from service was awarded to the applicant. The appeal so preferred by the applicant was also considered and rejected by the authorities and after the decision rendered by this Tribunal in O.A. No. 99/2008, the appellate authority again reviewed the punishment awarded to the applicant and after giving an opportunity of hearing to the applicant , finally came to the conclusion that the punishment awarded to the applicant is commensurate with the misconduct committed by the applicant. Accordingly , appellate authority passed the order rejecting the appeal of the applicant. Apart from this, it is also indicated by the respondents that there is no illegality in passing the order and also in conducting the inquiry as such no interference is called for by this Tribunal.

4. No rejoinder reply is filed by the applicant.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant was working as Post Master of Rural Branch of Post Office Firozpur, Makhdumi , Rudauli, Barabanki. He was served with a charge sheet on 8.2.2007 alleging fraudulent withdrawal from



SB A/c no. 249915 which belong to one Sri Praveen Kumar Mishra , though the applicant denied the charges. A regular enquiry was conducted, in which the charges stands approved . The copy of the enquiry report was also given to the applicant and he submitted the representation against the same. After considering all aspects of the matter, the Disciplinary authority passed the order of removal from service. The applicant has also preferred an appeal against the said order and the appeal of the applicant was also considered by the appellate authority and appellate authority rejected the appeal of the applicant. The applicant feeling aggrieved by the said order, preferred the present O.A. and the said O.A. was disposed of with direction to the appellate authority to review the quantum of punishment imposed upon the applicant after hearing him. After the order of the Tribunal, the respondents issued a notice upon the applicant for personal hearing and in pursuance thereof, the applicant appeared but due to certain reasons, the personal hearing could not be given. As such, he was given time for 2nd February, 2010 and on that date, the applicant appeared and he was given the personal hearing. The applicant has not given any written representation. Only oral statement has been given by the applicant. After considering the statement made by the applicant, the appellate authority came to the conclusion that he failed to indicate any such ground which may be considered in regard to the punishment awarded to the applicant .

7. In the order passed in O.A. No. 99/2008, it is categorically observed by the Tribunal that “at the time of hearing, the learned counsel for applicant fairly indicated that applicant has in fact committed the mistake by withdrawing the amount relating to aforesaid Account of Sri Praveen Kumar Mishra, but according to him, the withdrawal application filed by the account holder was misplaced some where but the withdrawal amount of Rs. 1400/- has already been paid to him and since the account holder was not available for long period in the village, the applicant ought to make signature on the

withdrawal application on behalf of the depositor. It clearly shows that the applicant with a clear intention prepared the withdrawal form under his signature as such he was held responsible for misconduct. As observed by the Hon'ble Apex Court in the case of **Regional Manager, UPSRTC Vs. Hoti Lal reported in (2003) 3 SCC 605**, the Hon'ble Apex Court clearly observed as under:-

"If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable."

8. As the applicant, is holding the post of trust, it is incumbent upon the applicant to be honest and any misconduct cannot be taken lightly. After the decision of the Tribunal, due opportunity was given to the applicant and the appellate authority came to the conclusion that applicant failed to indicate any reason for reconsideration. As such, the appellate authority rejected the appeal of the applicant.

9. Considering the submissions made by the learned counsel for parties as well as observations made by the Hon'ble Apex Court, we do not find any justified reason to interfere in the present O.A.

10. Accordingly, the O.A. is dismissed. No order as to cost.

J. Chandra
(Jayati Chandra)
Member (A)

HLS/-

V.R. Agarwal
(Navneet Kumar)
Member (J)