

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No: 535/2007.

Lucknow this the 30th day of March, 2009.

Hon'ble Mr. M. Kanthaiah, Member (Judicial)

Hon'ble Dr. A. K. Mishra, Member (Administrative)

Diwakar Dubey,
aged about 52 years,
S/o Sri Chandrika Prasad
R/o Village & Post-Paliya Golpur,
District Sultanpur.

Applicant.

By Advocate Sri D. Sinha for Pt. S. Chandra.

Versus

1. Union of India through Director General,
Postal Services, New Delhi.
2. The Chief Post Master General,
Uttar Pradesh Circle,
Lucknow.
3. Director, Postal Services (Head Quarters)
Office of Chief Post Master General,
U.P. Circle, Lucknow.
4. Superintendent of Posts,
Sultanpur Division,
Sultanpur-228001.

Respondents.

By Advocate Sri S. P. Singh for Sri M.A. Khan.

Order

By Hon'ble Dr. A. K. Mishra, Member (Administrative)

This is an application against the order dated 31.12.2004 of the disciplinary authority imposing the penalty of debarring the applicant for promotion/appearing in examination for 3 years and the order communicated in the memorandum dated 15.7.2005 by the revisional authority enhancing the penalty to that of dismissal from service and the order dated 16.10.2007 of Chief Post Master General confirming the penalty of dismissal imposed by the revisional authority.

2. The applicant, while working as Extra Departmental Brach Post Master, at Paliya Golpur, District Sultanpur was served with a charge memo containing 3



instances of misconduct on his part in non-disbursement of money orders amounting to Rs. 1,000/- in one instance, 2,000/- in the second instance and another 2,000/- in the third instance to the payees on the dates when fraudulent payments were shown. However, he made the payments subsequently and obtained receipt endorsements on blank papers only after the fraud was brought to light on complaints received from the payees. An enquiry was conducted against him. The applicant, according to his own averment, fully cooperated with the inquiry through out the proceedings. The inquiry officer held, on the basis of evidence before him, that all the charges were established against the applicant. A copy of the inquiry report was given to the applicant.. He made a representation against the findings in the report. But the disciplinary authority, after taking into consideration his representation in the matter came to the conclusion that the findings of the inquiry officer about the charges having been proved against the applicant were correct. However, considering the long years of service of the applicant in the department, the disciplinary authority took a lenient view and imposed the penalty of debarring him from promotion/appearance in promotional examination for 3 years. But the revisional authority not being satisfied with this decision, initiated suomoto revisional proceedings against the applicant and served a notice on him indicating his intention to enhance the penalty to that of dismissal from service on the ground that the charges proved were of a very serious nature involving misappropriation of public money and lack of devotion and integrity on the part of the applicant.

3. The applicant made a representation against the show cause notice, but the revisional authority, after discussion, concluded that the applicant was guilty of misappropriation of the amounts until the matter came to light through complaints received from the payees. The revisional authority held that the charges established against the applicant were very serious in nature and that it was against public interest to take back such an employee to service and that the ends of justice would be met if the penalty of dismissal is imposed on him. The Chief Post Master General, to whom a further appeal was made by the applicant, considered all the grounds taken by the applicant



in his appeal petition and held that the applicant had not made payment to the appropriate payees on the dates mentioned in the money orders and misappropriated the amounts by showing fraudulent payments.


The applicant has taken the following grounds in this application:-

- (i) that the impugned orders are arbitrary and violative of principles of natural justice as the conclusions were based on the findings made against the applicant at the time of preliminary inquiry.
- (ii) That some of the documents which were relevant for the purpose of defense were not supplied to the applicant.

On a careful examination of the punishment orders, it is seen that only such statement/evidence of the preliminary inquiry which were considered at the time of formal inquiry were taken into consideration. The applicant has not stated specifically the nature of documents which were required by him. He has not specifically stated whether documents which were relied on in the inquiry were not supplied to him or not shown to him.

The third ground taken relates to non-examination of witnesses whose deposition was necessary and relevant from the defence point of view. Here again, the applicant has not elaborated this plea. The applicant has not stated specifically the nature of documents which were required by him nor the nature of oral evidence which he wanted to adduce and how they were relevant to the inquiry proceedings.

The next contention is that the revisional authority did not show any reason in the show cause notice why he felt that an enhancement of the punishment was called for. It is alleged that the revisional authority has not given any justification about his difference of opinion with the orders passed by the disciplinary authority. On perusal of the orders of the revisional authority as well as the next higher authority namely CPMG, it is clear that they have held, on the basis of the charges which were found to be established against the applicant both in the findings of the inquiry officer as well as the disciplinary authority, that the lenient view taken by the



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disciplinary authority was not justified. The charges involved misappropriation of public money and misconduct on the part of the applicant in showing fraudulent payments and misappropriating the money order amounts until the matter came to light through complaints from the money order payees. He has taken recourse to obtaining the receipt endorsements in plain papers on a later date. Therefore, it was correctly held that he did not display absolute integrity and devotion to his duty and that he was guilty of serious misconduct which called for a severe penalty.

The next ground taken is that the punishment imposed is not commensurate with the gravity of charges levelled against the applicant and that the charges proved did not show any loss of money to the department. This aspect has also been considered by the CPMG who has said that although the matter did not involve pecuniary loss for the department, yet it has cast a stigma on the integrity, conduct and faithfulness of the applicant. Therefore, the penalty imposed to him was fully justified.

4. It is settled law that the scope of judicial review in respect of disciplinary proceedings is very limited in nature. It is not within the scope of court of law or the Tribunal to go into the assessment of the evidence in disciplinary proceedings as well as the quantum of punishment unless it is shown that there was miscarriage of principles of natural justice through denial of opportunity or that the findings were based on no evidence, or that the punishment was such as to shock the judicial conscience. No such contingency applies to the present case.

5. In view of the analysis in the preceding paragraphs, we find that the punishment meted out by the revisional authority which was confirmed by the CPMG was fully justified. This order does not suffer from any infirmity so as to call for a judicial interference.

AP

6. Under the circumstances, this application is dismissed as bereft of any merit. No costs.

Mishra 30/03/09
(Dr. A.K. Mishra)
Member (A)

[Signature]
(M. Kanthaiah)
Member (J)

v.