

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

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T.A. No. 133/87

198

DATE OF DECISION 8-1-1988Shri Sitaram Bandu Koli.

Petitioner

Mr. D.V. Gangal.

Advocate for the Petitioner(s)

Versus

Union of India & others.

Respondent

Mr. S.R. Atre for Mr. P.M. Pradhan

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. MUKERJI, MEMBER(A)

The Hon'ble Mr. M.B. MUJUMDAR, MEMBER(J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

Tr. Application No. 133/87

Sitaram Bandu Koli,  
Postal Assistant,  
Near Panchmukhi Maruti,  
Zillah Peth,  
Jalgaon,  
Dist. Jalgaon.

... Applicant  
(Original Plaintiff)

vs.

1. Union of India,  
through  
The Secretary,  
Department of Communication,  
Posts & Telegraphs Department,  
New Delhi.

2. Senior Superintendent of Post Offices,  
Bombay City South Division,  
Chinch Bunder Post Office Building,  
6th floor,  
Bombay-400 009.

3. The Superintendent of Post Offices,  
Jalgaon.

... Respondents  
(Original Defendants)

Coram: Hon'ble Member(A) S.P. MUKERJI  
Hon'ble Member(J) M.B. Mujumdar.

Appearances :

1. Mr. D.V. Gangal  
Advocate for the  
Applicant.
2. Mr. S.R. Atre (for  
Mr. P.M. Pradhan)  
Advocate for the  
Respondents.

JUDGMENT

Date: 8-1-1988

(Per M.B. Mujumdar, Member(J))

Regular Civil Suit No. 5 of 1982 filed by the applicant in the Court of the Civil Judge Senior Division, Jalgaon is transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985.

2. The essential facts for the purpose of this judgment are these : While the applicant was working as Postal Assistant at

Jalgaon the following five charges were framed against the <sup>him</sup> applicant in June, 1981.

"Article of Charge I:

That the said Shri S.B. Koli, While functioning as single handed SPM Pimpri Kh. S.O. during the period from 2-6-80 to 8-7-80 did not enter about 276 transactions of deposits and withdrawals in SB ledgers as and when they took place, as per entries of the same made in the long book from time to time and thereby failed to follow the provisions of Rule 424(1) and 425(3) of Vol.VI, part II read with Rule 412(2) ibid.

Article of Charge No.II

That the said Shri S.B. Koli, while functioning as aforesaid in the aforesaid office, during the aforesaid period, did not maintain the stock register of blank SB pass books as per provisions of Rule No.407 of Vol.VI part II read with D.G.P.&T New Delhi. commo. No.30-2/79-SB dated 7-5-79 and thereby caused difference of 27 blank SB pass book less than actual stock.

Article of Charge No.III

That the said Shri S.B. Koli while functioning as aforesaid in the aforesaid office, on 23-7-1979 failed to enter the transaction of withdrawal of Rs.5/- dtd. 23-7-79 in SB pass book of account No.802279 standing in the name of Shri Rupsing Dhudku Shilavat and thereby failed to follow provisions of Rule 425(3)(i) of Vol.VI part II.

Article of Charge No.IV

That the said Shri S.B. Koli, while functioning as aforesaid in the aforesaid office, during the period from 1-2-79 to 19-3-80 did not enter and account for in the R.D. Pass Books and RD Journal, the deposits for the months from Feb.79 to March80, paid by the guardian Shri B.B. Sonavane of depositors of R.D. a/c No.3335226 and 3335306 of Rs.10/- and Rs.20/- respectively from time to time and thereby failed to follow the provisions of rule 4(1) of F.H.B. Vol.I. The said Shri S.B. Koli also failed return the aforesaid pass books to the aforesaid guardian Shri B.B.Sonavane immediately after the transactions, but kept these aforesaid pass books in his custody without any valid reasons and without granting SB-28 receipt to the depositor and thereby failed to follow provisions of rule 496(ii) and read with rule 523/3 of Vol.VI part II.

Article of Charge No.V

That the said Shri S.B. Koli, while functioning as aforesaid in the aforesaid office during the period from 1-2-79 to 8-7-1980 failed to maintain absolute - integrity in respect of deposits accepted in Pimpri Kd. S.O.RD account No.3335226 and 3335306 as aforesaid (in the article of Charge No.IV) and also failed to maintain devotion to duty as aforesaid in the articles of charges 1 to 3 and thereby acted in a manner which is unbecoming of a Govt. servant and thereby violated the provisions of Rule 3(1) (i)(ii) & (iii) of CCS(Conduct) Rule 1964".

3. A regular departmental enquiry was held and the penalty of removal from service was imposed upon the applicant by the disciplinary authority i.e. Sr. Superintendent of Post Offices, Bombay City South Division (Respondent No.2). The applicant has challenged the above order by filing the suit.

4. Along with the suit the applicant had given an application for temporary injunction for restraining the respondents from implementing the above order. But that was rejected by the learned Civil Judge, Sr. Division, Jalgaon on 6-1-1982. The applicant had preferred an Misc. Civil Appeal No.124/83 against that order but that was also dismissed by the learned Asstt. Judge, Jalgaon on 15-7-1982.

5. We have heard Mr. Gangal the learned advocate for the applicant and Mr.S.R. Atre for the respondents. Mr. Gangal specifically restricted his arguments to the quantum of punishment only. He submitted that the penalty of removal from service is too harsh and it should be reduced and the applicant be reinstated with or without arrears.

6. The papers show that the applicant had in his written statement admitted all the charges levelled against him and hence there is no question of holding further enquiry. Regarding the penalty the Disciplinary Authority has observed at the end of its order as follows :

"I have carefully gone through the entire case. It is noted that the official by not maintaining the S.B. Ledger book, long book, A.D. Pass Books, S.B. Pass Books, Stock Register of blank S.B. Pass Books proper violated the departmental rules as regards S.B. Transactions and misappropriated a large sum of public money. Even though he made good the misappropriated money later on, his lapses cannot be excused as they are of a serious nature and shows absolute lack of integrity on the part of the official".

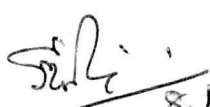
7. In support of his submission that the penalty imposed upon the applicant should be reduced Mr. Gangal relied on the following circumstances : (i) The applicant had pleaded guilty; (ii) The applicant had made good the amount misappropriated by him by depositing the amount; (iii) Criminal Court had released the applicant on a bond of good conduct; (iv) The applicant should be given a chance to rehabilitate himself.

8. We find no substance in any of these grounds. It is true that the applicant had admitted all the charges before the disciplinary authority but that by itself would not be a good ground for reducing the penalty. According to the charges the applicant had misappropriated the amount entrusted to him not only on one occasion but on a number of occasions. As per Charge I, he had failed to enter about 276 transactions of deposits and withdrawals in SB ledgers as and when they took place. The total amount which was misappropriated by the applicant was to the tune of Rs. 14,300/- and the fact that he deposited the amount afterwards will not mitigate the seriousness of his misconduct. Then it appears that a criminal case No. 177/81 was filed against the applicant for misappropriating the amount of Rs. 14,300/-. As the accused pleaded not guilty to the charge the prosecution examined some witnesses and on the basis of that evidence the applicant was held guilty of the charges. After hearing him on the point of sentence, the learned Chief Judicial Magistrate by his judgment delivered on 17-5-1984

convicted the applicant of the offence punishable under Section 409 of the Indian Penal Code but instead of sentencing him released him on executing Personal Bond of Rs. 1,000/- for one year to appear and to receive the sentence that may be passed in the case and in the meantime to be of good behaviour and to keep peace. Mr. Gangal relied on this circumstance in support of his plea for reducing the sentence. We feel that the circumstances that the applicant had refunded the entire amount and reported the matter to the higher authorities would not be a ground for reducing the sentence or retaining the applicant in service though these grounds may be good for not sending him to prison.

9. In a judgment of the full Bench of this Tribunal in S.K. Damle vs. Collector of Central Excise in Tr. Application No. 218/86 delivered on 13-10-1987 it is held that when the delinquent is held guilty and punished by the Disciplinary Authority for charges involving moral turpitude, the Tribunal should not interfere with the penalty imposed upon him. There cannot be any doubt that the offence of misappropriation involves moral turpitude. The Disciplinary Authority after considering all the circumstances has imposed penalty of removal from service, and we do not think that it will be proper or legal on our part to interfere with it.

10. We are, therefore, not impressed by any of the grounds put forth by Mr. Gangal for reducing the penalty imposed by the Disciplinary Authority. In our view persons like the applicant do not deserve to remain in Government service. We, therefore, dismiss the application with no orders as to costs.

  
(S.P. MUKERJI)  
MEMBER(A)

  
(M.B. MUJUMDAR)  
MEMBER(J)