

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH; PATNA**

ORIGINAL APPLICATION NO. 467/2005

Date of Order: 24/11-February 2011

CORAM:

HON'BLE MR. JUSTICE ANWAR AHMAD, MEMBER (JUDICIAL)

HON'BLE MR. SUDHIR KUMAR, MEMBER (ADMINISTRATIVE)

Dina Nath Ram S/o late Chunni Ram, Ex-Postal Assistant Takia Bazar S.O. District Rohtas, R/o village and P.O. Takia Bazar, District Rohtas.

...Applicant.

Mr. A.N. Jha, counsel for the applicant.

VERSUS

1. The Union of India through the Secretary, Government of India, Ministry of Communication and I.I., Department of Posts, New Delhi cum the Director General, Department of Posts, India, New Delhi - 110 001.
2. The Chief Postmaster General, Bihar Circle, Patna - 800001.
3. The Director of Postal Service (H.Q.), Patna 800 001.
4. The Superintendent of Post Offices, Rohtas Division Sasaram, P.O. Sasaram H.O., District Rohtas - 821 115.

...Respondents.

Mr. M.D.Dwivedi, A.S.C., counsel for respondents.

ORDER

(Per Mr. Sudhir Kumar, Member (A))

This application has been filed by the applicant against the order of his dismissal from service as Postal Assistant issued by the Superintendent of Post Offices, Rohtas Division (respondent no. 4) on 25.07.2003, and the rejection of his appeal by the Director of Postal Services (HQ) Patna (respondent no. 3) vide his order dated 16.07.2004.

2. While the applicant was working as the Head Treasurer at Sasaram Head Post Office, he was proceeded against in a disciplinary enquiry started under Rule 14 of CCS (CCA) Rules, 1965 vide memo dated 10.08.1999 issued by the respondent no. 4 on the following four grounds:

- "1. For showing fake remittance of Rs. 2 lacs to Dinara Sub Post Office on 23/12/97.
2. For showing fake remittance of Rs. 1,80,000 to Kudra S.O. on 31/12/97.
3. For showing fake remittance of Rs. 2,50,000 to Koath S.O. on 4/5/98.

Item No. 1 to 3 for violation of Rule 3 (i) (ii) (iii) of CCS (Conduct) Rules, 1964.

4. For charging 31,453.00 during the period from 23/10/96 to 2/9/97 under the Head Bills paid on his own motion on account of payment of planted fake vouchers and thereby infringed Rule 6 (i) of P&T Financial Hand Book Vol. I (General) 5th Edition and Conduct Rules 3 (i) (ii) and (iii)."

3. The applicant filed a reply on 10.08.1999, denied the charges, and prayed to be exonerated. The respondent no. 4, as the disciplinary authority, then appointed one Shri Basudeo Prasad, retired APMG, as the Inquiring Officer to enquiry into the charges levelled against the applicant. One Shri S.N. Thakur, ASPO (HQ) Rohtas Division was appointed as Presenting Officer. The enquiry was conducted by the Inquiry Officer, and he submitted his report on 02.04.2003, holding all the charges having been proved against the applicant. This report was also served upon the applicant as per the procedure prescribed in this regard through Annexure A/5 dated 07.04.2003.

4. The applicant once again represented against the Inquiry Report, but the respondent no. 4 ordered the applicant's dismissal from service by passing a detailed 13 pages order (impugned


Annexure A/1) discussing all the charges, and arriving at his findings, before awarding to the applicant the penalty of dismissal from service, which shall ordinarily be disqualification for future employment.

5. The applicant then submitted his appeal before the Director of Postal Services, Patna Region, Patna, on 08.09.2003 (Annexure A/6). However, through the impugned order dated 16.07.2004 (Annexure A/2), the Director of Postal Services passed a detailed four pages order upholding the punishment of the applicant's dismissal from service, and rejecting his appeal, and a copy of the same was also served upon the applicant.


6. In paragraph 4.9 and 4.10 of this O.A. the applicant has given his detailed version, of the questioned transactions having been approved by the Postmaster or Deputy Postmaster on duty, and has tried to find fault with the conclusion arrived at by the Inquiry Officer on the basis of the documents as well as the evidence of the then Postmaster Shri V.S. Prasad during the course of the enquiry, when he had denied his signatures on the documents concerned. The applicant's contention is that handwriting expert's opinion should have been obtained, but that this was never done, and thus, he is entitled for benefit of doubt. The applicant, therefore, reiterated his stand that all remittances were made to the Sub Post Offices in accordance with the Rules of the Postal Manual, and all bills for conveyance charges were paid to the concerned payees on the basis of valid orders passed by the Postmaster / Deputy Postmaster. He has reiterated his contention that these remittances and payments were never challenged by the Postmaster at close of the office, and he had signed the Treasurer's

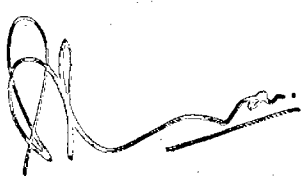
Cash Book, as well as the Head Office Summary, and has subsequently denied this in order to save his neck, which is an after thought. He also submitted that the orders of his dismissal from the service are too harsh and excessive in comparison to the allegations and hence bad in law and liable to be rejected and prayed that the O.A. be allowed by setting aside the impugned orders Annexure A/1 and Annexure A/2, and prayed that the respondent authorities may be directed to reinstate the applicant in service with all consequential benefits.

7. On 28.07.2005, when this O.A. came up for admission, the learned counsel for the applicant submitted that the applicant would press this application only on the ground that the punishment awarded was excessive and was not commensurate with the alleged charge in the departmental proceedings. The Bench on that day, therefore, noted that this application will be heard only on the point of quantum of punishment awarded to the applicant in the departmental proceedings, and to that extent, this application was admitted.




8. When the respondents filed their reply written statement on 30th September, 2005, they submitted that while through order dated 28.07.2005 this case was admitted only on the point of quantum of punishment, but under the facts and circumstances of the case, the applicant is not entitled to get any relief with regard to the quantum of punishment in the light of the serious allegations made against him. They detailed as to how while working as Head Treasurer, Sasaram Head Office, the applicant had showed fraudulent remittances in the Treasurer's Cash Book, under fake receipts of the concerned Sub Postmaster, in order to cover up the

shortage of cash, and to mislead the authorities concerned, and he also charged fake vouchers under bills paid in the Treasurer's Cash Book for the period concerned. They pointed out that both the Disciplinary Authority and Appellate Authority have found the charges to have been conclusively proved. They, therefore, justified the award of major penalty ~~of~~ punishment of the  applicant's dismissal from service, which shall ordinarily be a disqualification for future employment under the Government under Rule 11 of the CCS (CCA) Rules, 1965, and this punishment having been confirmed by the Appellate Authority under Rule 27 of the said Rules.

 9. They further submitted that the O.A. itself is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. They submitted that when the report of the Inquiry Officer was sent to the applicant, in spite of reminders, he did not submit any defence against the Inquiry Officer's report. They further submitted that when Shri V.S. Prasad, the then Postmaster, had deposed and his signatures were verified with the available documents / records by the Inquiry Officer, in view of the Inquiry Officer's report, the plea of the applicant now for the requirement of taking the opinion of the handwriting expert was not tenable. They submitted that both the order of punishment, as well as the order on the appeal, had been passed by the authorities concerned after observing the departmental rules in this regard, and having been convinced that the gravity of the case warrants the punishment as given to the applicant, because of his having misappropriated huge amounts of public money, and having betrayed the faith of the public whom he was supposed to serve,

the impugned orders are correct under law and the O.A. is fit to be dismissed.

10. During the course of the arguments, the learned counsel for the applicant submitted that the applicant was from a very poor family, and the quantum of punishment was too excessive as it had debarred the applicant from any future employment under the Government, and he prayed for the quantum of punishment to be reduced. On the other hand, the learned counsel for the respondents supported the quantum of punishment levied upon the applicant, and submitted that when on 28.07.2005 itself this Bench had come to the conclusion that the application will be heard only on the point of quantum of punishment awarded to the applicant, as the guilt of the applicant had been proved conclusively, and the punishment awarded to the applicant was commensurate with the gravity of his acts of misappropriation of large public money, the O.A. was not maintainable at all.



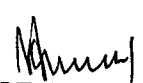
11. We have given our anxious consideration to the fact of this case. It has been held by the Hon'ble Apex Court in a number of cases that it is not appropriate for Courts / Tribunals to put themselves into the shoes of the Disciplinary and the Appellate Authorities deciding departmental proceedings cases, and the Courts / Tribunals ought to interfere only when cryptic and non-speaking orders are passed, or prejudice is caused to the delinquent official by not following the proper procedure, or in any other manner the fundamental rights of the applicant are infringed upon by the respondent-authorities by not following the appropriate procedure in this regard, or the punishment imposed is grossly disproportionate to the charges proved. In this case, we

find that the respondents have followed the correct prescribed procedure in regard to the conduct of the departmental enquiries, the Inquiry Officer has appreciated the evidence adduced before him in detail, the principles of natural justice have been followed, and procedural fairness is evident from the various stages of procedures having been followed by the respondents before imposing the penalty.

12. While admitting the case for hearing, the Bench had made it very clear that the issue of departmental enquiry was not to be reopened, and the case was to be heard only on the point of quantum of punishment. But, after having gone through the pleadings, and the arguments of both the learned counsel for the applicant and the learned counsel for the respondents, we do not find that any excessive or grossly disproportionate punishment has been imposed upon the applicant. Since the Tribunal cannot put itself in the shoes either of the Disciplinary Authority, or of the Appellate Authority, and there have been concurrent findings at all levels, supported by a proper appreciation and discussion of facts, we are loathe to hold that either the Disciplinary Authority or the Appellate Authority erred in their appreciation of the evidence, and that they could not have come to the conclusion that the applicant is liable for award of punishment of dismissal from service.

13. In the result, the Original Application *fails*, and is dismissed, but there shall be no order as to costs.


(SUDHIR KUMAR)
MEMBER (ADMINISTRATIVE)


(JUSTICE ANWAR AHMAD)
MEMBER (JUDICIAL)