

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI**

CAMP AT AURANGABAD

ORIGINAL APPLICATION NO. 1152/ 1996

MONDAY, THE SIXTH DAY OF AUGUST, 2001

CORAM:

**SHRI JUSTICE BIRENDRA DIKSHIT. VICECHAIRMAN.
SHRI M.P. SINGH. MEMBER (A)SS**

Shri Bhaguji Marati Mhaskule,
residing at & Post Hingangaon,
Tal. & Dist. Ahmednagar,
then working as Postman in the
Head Post Office at Ahmednagar,
Ahmednagar-414 001.

... Applicant

By Advocate Shri S.R. Atre

Vs.

1. The Union of India, through
the Secretary, Department
of Telecommunication,
Sanchar Bhavan, New Delhi.
2. The Chief Postmaster General,
Maharashtra Circle,
C.P.O. Building, Fort,
Mumbai-400 001.
3. The Postmaster General,
Pune Region, Pune.



4. The Senior Postmaster,
Ahmednagar, H.P.O.,
Ahmednagar.

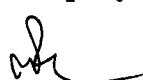
By Advocate Shri P.M. Pradhan.

ORDER (ORAL)

Hon'ble Shri M.P. Singh, Member (A)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking direction to the respondents to allow him to join Government service as postman with all consequential benefits like arrears of pay since 01.8.1985.

2. The applicant joined as Extra Departmental Delivery Agent in the postal department in the year 1962 and was working as such in the department. He was subsequently promoted as Packer and thereafter as peon in 1983 at Ahmednagar. He was entrusted the work in beat No.33 for effecting payment of money orders. He was issued with a charge sheet for misappropriation of the amount of sixteen money orders amounting to Rs.2095/- during the period from 25th May, 1985 to 2nd August, 1985. An enquiry was conducted into the charges. During this inquiry, the applicant admitted all the charges levelled against him. The inquiry was ^{concluded} ~~conducted~~ and the charges were proved.



The Disciplinary Authority, after taking into consideration the findings of the inquiry officer and also based on material available on record, imposed the punishment of reduction of pay by five stages with effect from 30th December, 1989.

3. In the meanwhile, the applicant had applied for 10 days leave and thereafter remained absent unauthorisedly. Pursuant to this, a charge sheet was issued to him in 1994. The applicant did not join the duty and also did not participate in the inquiry, although he was given an opportunity by inquiry officer to participate in the inquiry. Disciplinary Authority, after taking into consideration the entire case of the disciplinary proceedings, imposed the penalty of dismissal from service on the applicant by the order dated 31st October, 1994.

4. Apart from initiating the departmental proceedings, the respondents have also filed a criminal case against the applicant for misappropriation of five money orders amounting to Rs.1050/-.

According to the respondents, charge framed against the applicant in the criminal case was quite different from that of departmental proceedings. The applicant was charged for unauthorised absence from duty, whereas, in the criminal court, he was charge sheeted for



misappropriation of money orders. Later on, the applicant was acquitted by the criminal court of the charges levelled against him.

5. The applicant did not file any appeal against the order of the disciplinary authority and instead, he has been writing to the respondents to allow him to join the duty. The respondents have not allowed him to attend the duty on the ground that he has already been dismissed from service. Aggrieved by this, the applicant has filed this OA.

6. Heard both the learned counsel for the parties. During the course of the arguments, the learned counsel for the applicant submitted that since the applicant has been acquitted of the criminal charges, he should be allowed to join duty. He also submitted that because the criminal case was going on, he did not file any appeal against the order of the Disciplinary Authority. He further submitted that the punishment imposed on the applicant is disproportionate to the charge levelled against him. On the other hand, the learned counsel for the respondents submitted that the disciplinary proceedings initiated against the applicant were, for his unauthorised absence from duty for a long period, whereas, the charges framed against him in the criminal court were for misappropriation of money



orders. Learned counsel for the respondents also submitted that the applicant has not filed any appeal against the order of the Disciplinary Authority and hence the order of the Disciplinary Authority stands.

7. After hearing both the learned counsel and after perusing the pleadings, we find that the inquiry has been held by the respondents in accordance with law, rule and procedure. The applicant had not filed any appeal against the order of the Disciplinary Authority. During the course of the arguments, the learned counsel for the applicant submitted that he may be allowed to file an appeal now after condoning the delay. However, at this stage, we cannot allow the applicant to file the appeal against the order of Disciplinary Authority. It is settled law that the Tribunal cannot reappriate the evidence and also cannot go into the quantum of the punishment unless it shocks the conscious. In this case, the charges against the applicant are serious and the penalty imposed on him is justified.

8. In view of the aforesaid reasons, there is no ground to interfere with the order passed by the Disciplinary Authority. For this reason, the OA is devoid of merit and is dismissed accordingly. No order as to costs.


(M.P. SINGH)
MEMBER (A)

B. Dikshit
(BIRENDRA DIKSHIT)
VICE CHAIRMAN