

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 506 of 2001.

Dated this Wednesday the 17th day of July, 2002.

Shri Rameshkumar Manilal Patel, \_\_\_\_\_ Applicant.

Shri S. P. Inamdar, \_\_\_\_\_ Advocate for the  
Applicant.


**VERSUS**

Union of India & Another, \_\_\_\_\_ Respondents.

Smt. H. P. Shah, \_\_\_\_\_ Advocate for  
Respondents..

CORAM : Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman.  
Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ? Yes  
(ii) Whether it needs to be circulated to other No  
Benches of the Tribunal ?  
(iii) Library ? No

  
(B. N. BAHADUR)  
MEMBER (A).

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
CAMP : AURANGABAD.

ORIGINAL APPLICATION NO.: 506 of 2001

Dated this Wednesday, the 17th day of July, 2002.

CORAM : Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman.  
Hon'ble Shri B. N. Bahadur, Member (A).

Shri Rameshkumar Manilal Patel,  
Group 'C', Ex. EDSPM Vivra Bk.  
Pin 425 523,  
At and Post Vivra Bk.  
Taluka Ravera, Dist. Jalgaon,  
Vivra Bk. 425 523.

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Applicant.

(By Advocate Shri S. P. Inamdar)

VERSUS

1. Union of India through  
The Director Postal Services,  
O/o. The Post Master General,  
Aurangabad Region,  
Aurangabad - 431 002.

2. The Superintendent of Post  
Offices, Bhusawal Division,  
Bhusawal - 425 201.

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Respondents.

(By Advocate Smt. H. P. Shah)

O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

The Applicant in this case is aggrieved by the order of his dismissal from service dated 09.10.2000 (Annexure A-1) as also against the order deciding his appeal dated 09.03.2001 (Annexure A-2). He seeks the relief for quashing and setting aside of these impugned orders.

2. The facts of the case, as brought out by the Applicant, are that he was appointed as E.D.B.P.M., Vivara Bk. with effect

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from 14.10.1975 and was performing his duties satisfactorily, but following an inspection in April 2000, some short credit was noticed. Details of short credit are provided in paras 4.5 and 4.6 of the O.A., and further details regarding the inspection mentioned. The Applicant was put of duty from 10.05.2000, and charge-sheeted under Rule 8 of Extra Departmental Agents (Conduct & Service) Rules, 1964 through a Memo dated 24.05.2000. After a regular enquiry, the progress of which is described by Applicant, the punishment of dismissal from service was imposed, and his appeal rejected.

3. It is the contention of the Applicant that the Disciplinary Authority and Appellate Authority have ignored instructions regarding procedure, and regarding quantum of punishment. Certain other grounds are also taken by the Applicant. These amongst others, were argued by his Learned Counsel, Shri S. P. Inamdar, and we shall revert to them ahead.

4. The Respondents have filed a Written Statement of reply, resisting the claim of the Applicant, and providing the facts of the case. It is contended that the Applicant had admitted the mistake committed by him in the statement recorded by the SDI (P) Yawal Sub Division, Yawal (and not by Complaint Inspector, as alleged). The short credit is admitted. It is stated that cash was found short at the time of opening of Post Office itself and hence, the contention of the Applicant that shortage of Rs. 19.25 came about because of shortage of change is not a tenable argument.



5. The Written Statement further makes the point that punishment awarded by Disciplinary Authority is commensurate with the gravity of the guilt where integrity has become clearly doubtful. It is averred that instructions and procedure regarding appointment of Inquiry Officer and Presenting Officer are scrupulously followed and moreover, no objection is raised at the time of enquiry.

6. We have seen all papers in the case and have heard the Learned Counsel on both sides carefully. Learned Counsel for the Applicant, Shri S.P. Inamdar, took us over the facts and reiterated the grounds and contentions raised in the O.A. He further made the following points, as recorded below, in gist :

It was alleged that personal hearing was not given to the Applicant in appeal. On merits, it was stated that there was a grave shortage of change in that area and only because of this, the shortage of small amount of Rs. 19/- or so had occurred. This was the only incident in his long career which was unblemished. Learned Counsel took us over the appeal that he made, making the point that the defence raised by him in regard to the amount of Rs. 11,000/- therein should be considered. He pointed out that the Bank in the village opened during the same hours as the Post Office, and it was not possible to get drafts, etc. made on a day to day basis. The point regarding gross disproportionality of the penalty was also argued at some length.

7. Learned Counsel for the Respondents argued the matter with reference to the Written Statement, a gist of which has already been brought out in paragraphs above.



8. We have considered these oral arguments made, and have also gone through the papers in the O.A., including the rejoinder filed. While we deal with this case, we must keep in view the law settled in regard to the judicial review in cases concerning penalties imposed on Government servants after enquiry. We, therefore, carefully examined the aspects regarding procedure followed, whether there is any perversity in the conclusion/s reached, whether it can be a case of 'no evidence', arbitrariness, etc. and finally, whether the punishment imposed is grossly disproportionate. At the outset, we must say that after going through the pleadings we find that there is no flaw <sup>of</sup> in the procedural aspect/s <sup>of</sup> the enquiry. Proper appointment of the Inquiry Officer and Presenting Officer have been made and it is not even an allegation that enquiry was not properly conducted, except that Learned Counsel argued that hearing was not given by the Appellate Authority. We have gone through the order of the Appellate Authority dated 09.03.2001 and find that a full analysis has been made with reference to the appeal filed. The points for consideration have been drawn up, and the Appellate Authority has evidently applied his mind to the points raised. We do not therefore find any flaw in the procedural aspect of the enquiry/appeal.

9. The assessment of the evidence that was discussed by Learned Counsel on both sides does not also show that there is any gross arbitrariness in the conclusions reached. In such kind of transactions, it is not necessary that shortage would necessarily have to be of huge amounts for guilt to be established. We do not find any element of perversity in the


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decision vis-a-vis the evidence on record which we have seen. It is certainly not a case of 'no evidence'. In the light of this position, we cannot undertake reassessment of evidence, as if we are an Appellate Authority. We are constrained by the law settled in this regard.

10. We are also conscious that penalty of dismissal from service is a gravest penalty that can be imposed, and we have considered the aspect of gross disproportionality argued before us by Counsel for Applicant. Given, however, the fact of shortage of cash and the nature of charged proved, we cannot in the facts and circumstances of the case be persuaded to take the view that a lesser penalty can be directed to the post through judicial review.

11. In view of the discussions above, the relief sought cannot be provided. The O.A. is, therefore, dismissed with no order as to costs.

  
(B. N. BAHADUR)  
MEMBER (A).

  
(BIRENDRA DIKSHIT)  
VICE-CHAIRMAN.

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