

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 442 OF 2001

Date of Decision: 03.07.2001

Shri Vijay Ramdulare Pardeshi. Applicant(s)

Shri S.P. Kulkarni. Advocate for Applicants

Versus

Union of India & another Respondents

CORAM: JUSTICE BIRENDRA DIKSHIT. VICE CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY .. MEMBER (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal? /x
- (3) Library ✓

Shanta Shastri
(SMT. SHANTA SHASTRY)
MEMBER (A)

Gaja

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 442 OF 2001

TUESDAY, THE 3RD DAY OF JULY 2001

CORAM: SHRI JUSTICE BIRENDRA DIKSHIT. VICE CHAIRMAN
SMT. SHANTA SHASTRY. . MEMBER (A)

Vijay Ramdulare Pardeshi,
S/o Ramdulare Shivprasad Pardeshi,
Age 41 years, Ex. EDBPM,
Dalkhan B.O. (Kalyan R.S.),
Residing at Khardi, Tal. Kalyan,
District- Thane-421 601. .. Applicant

By Advocate Shri S.P. Kulkarni.

Versus

1. Union of India, through
Senior Superintendent of Post Offices,
Thane Central Division,
Thane R.S. P.O. Building,
3rd Floor, near Thane Railway
Station (C.Rly),
At PO Thane-400 601.
2. Director of Postal Services,
Mumbai Region, Office of the
Chief Postmaster General,
Maharashtra Circle, 2nd Floor,
Old G.P.O. Building, G.P.O. Compound,
near C.S.T. Central Rly.,
At PO Mumbai 400 001. .. Respondents

O R D E R (ORAL)

Smt. Shanta Shastry.

.. Member (A)

The applicant, who was working as Extra Departmental Branch Postmaster (EDBPM) in Thane Central Division, Thane, was proceeded against departmentally vide office memo dated 26.2.1999. The charges against the applicant were as follows:

- (a) Shri V.R. Pardeshi while working as BPM, Dalkhan BO, remained abruptly absent from duty from 21.08.96 to 29.08.96 also not submitted APP-45 forms for the leave period to ASPOs Kalyan Sub Dn. Thus, violated the provisions of B.O. Rules (7th Edition) Reprint Rule No.50.
- (b) Shri V.R. Pardeshi while working as BPM, Dalkhan B.O. accepted Rs. 86/- towards PLI premia from Shri V.S. Patangrao and issued receipt Number 1 dated 29.02.96 against the same. But the said amount has not been credited to A/c or Govt. A/c. thereby violating the provisions of B.O. Rules (7th Edition) Reprint Rule Number 124 (c) & 132 (2).
- (c) Shri V.R. Pardeshi while working as EDBPM Dalkhan BO kept more cash than the maximum limit prescribed to him on 08.11.95, 20.11.95, 22.11.95, 23.1.95, 02.12.95, 08.12.95, 23.12.95, 30.12.95 and 02.01.96 thereby violating provisions of BO Rules 177 (2) (6th edition).
- (d) Shri v.R. Pardeshi while working as EDBPM, Dalkhan, BO, M.O. Number 5196/6 dated 26.06.96 and MO Number 9705/6 dated 30.07.96 were received at Dalkhan BO on 08.07.96 and 02.08.96 for payment. But instead of issuing the same to EDDA for payment duly entering in BO journal and obtaining signature of EDDA, He himself put imaginary remark that "payee not found" on 08.07.96, 09.07.96, 13.07.96. Thus, he has not shown devotion in his duties. Thereby violating provisions of BO Rules (7th edition, Reprint) Rule No. 106 of P & T Extra departmental CCS (CCA) Rules, 1964 Rule No.17.

After the applicant denied the charges, a regular enquiry was conducted and the enquiry officer submitted his report on-8.9.98. Based on the enquiry officer's report, the Disciplinary Authority passed the punishment orders on 26.2.99 removing the applicant from service. The applicant, therefore, preferred an appeal against the aforesaid order on 7.4.99. The Appellate Authority, after carefully considering the appeal, has passed an

elaborate reasoned order on 9th December, 2000 holding the applicant guilty of charges (a) to (d) and rejected the appeal of the applicant.

2. Aggrieved by the impugned order, the applicant has approached this Tribunal for quashing and setting ~~aside~~^h the appellate order, punishment order and charge memo and to reinstate him with full backwages, seniority etc.

3. The main contention of the applicant is, ^{that} though the enquiry officer has held that the charges have not been proved, the Disciplinary Authority, without recording any reasons as to why he disagrees with the report of the enquiry officer, had imposed the penalty of removal on the applicant. This is against the settled law. As per the rules, the Disciplinary Authority has to record the reasons whenever he disagrees with the findings of the enquiry officer. The applicant has not taken any other major ground for quashing and setting ~~aside~~^h the impugned order.

4. The applicant has also failed to produce the copy of the order passed by the Disciplinary Authority as according to the applicant, he has lost the same.

5. We have gone through the order passed by the Appellate Authority on 9th December, 2000. We find that the Appellate Authority has discussed all the articles

of charges against the applicant in detail and has after thorough analysis of the evidence available based on the report of the enquiry officer, ~~has~~ come to the conclusion that the charges are proved and accordingly the appeal was rejected. We ~~are~~, therefore, cannot find any fault with the Appellate Authority's order. The applicant also admits that he did not take the ground in his appeal to the Appellate Authority that the Disciplinary Authority had passed the order of penalty without giving reasons for his disagreement with the findings of the enquiry officer. Therefore, we have to say that the order of the Disciplinary Authority, which has not been produced before us, has merged in the order of the Appellate Authority. The Appellate Authority's order being comprehensive covering all the points, we are not inclined to interfere with the order. In the result, the OA is dismissed at the admission stage itself without any order as to costs.

Shanta S.

(SMT. SHANTA SHASTRY)
MEMBER (A)

B. Dikshit

(JUSTICE BIRENDRA DIKSHIT)
VICE CHAIRMAN

Gaja