

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

OA NO.434/2001

Dated: this 13th day of June, 2003.

HON'BLE MR. JASBIR S. DHALIWAL, MEMBER (J)
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

Shri Suhas Jagannath Bhagat
s/o Shri Jagannath Jaising Bhagat
Extra Departmental Delivery Agent
Neral Post Office, Neral
Residing at Laxmi Apartment, Room no. 1, near
at P.O. Neral, Tal. Karjat
Distt. Raigad.

(By Advocate: Sh. S.P. Kulkarni)Applicant.

Versus

1. Union of India through Assistant Supdt.
of Post Office, Panvel Sub Division
At P.O. Panvel
Navi Mumbai.
2. Superintendent of Post Offices
Navi Mumbai Division, at P. Panvel
Navi Mumbai.
3. Director of Postal Services
Mumbai Region
O/o Chief Postmaster General
Maharashtra Circle, Old GPO Building
2nd Floor, Fort, Mumbai.

(By Advocate: Smt. H.P. Shah)Respondents.

O R D E R

Shri S.K. Malhotra, Member (A)

The present OA has been filed by the applicant with a prayer to set aside the punishment order dated 16.5.2000 [Annexure A(ii)] removing the applicant from service and also order dated 5.12.2000 (Annexure A(i)) by which his appeal has been rejected by the appellate authority.

2. The facts of the case, in brief, are that the applicant was appointed on the post of Extra Departmental Delivery Agent (for short EDDA) Neral Post Office w.e.f. 1.11.1991. He was issued a charge sheet on 17.10.97 (Annexure A (iv)) in which two charges were levelled against him. The first charge related to his unauthorised absence on 27.9.97, 29.9.97 and 30.9.97 and the

second charge was that he did not deliver many registered and ordinary letters and many letters were found in the canvas bags lodged on the Loft above the Post Office. On denial of the charges, a detailed enquiry was held by the Enquiry Officer who in his report dated 17.1.2000 based on the statements of the witnesses and other material on record held that both the charges against the applicant stand proved beyond doubt. In this enquiry, the applicant participated and he was also given an opportunity to cross examine the witnesses. The disciplinary authority after taking into consideration the facts, as brought out in the enquiry report, imposed the penalty of removal from service with immediate effect vide order dated 16.5.2000 (Annexure A(ii)). The applicant preferred an appeal which was considered by the appellate authority. The appellate authority after giving due consideration to the points raised by the applicant rejected the appeal by a detailed speaking order dated 5.12.2000 (Annexure A(i)). The applicant has now filed this OA against the above penalty imposed on him by the respondents.

3. The main allegation against the applicant is that the applicant had dumped a huge number of ordinary letters and 45 registered letters in Post Office and did not deliver them to the persons concerned. When the public were not getting dak, a very serious complaint was received by PMG (MR). During enquiry, it revealed that the dak was dumped in 6 canvas bags and these bags contained ordinary letters and 45 registered letters. When an inventory of mail was prepared, it was observed that most of the ordinary letters and all registered letters were entrusted for delivery to the applicant and they belonged to his beat. The applicant has stated that the charge sheet served on him neither contained any specific detail of these 45 registered letters and other articles nor any evidence to show that these 45 registered

letters were entrusted to him for delivery. He has alleged that there was a complete mess in the Neral Post Office. The huge mail which was found dumped in all the six canvas bags was not meant for delivery by the applicant alone but also belonged to the delivery area served by other EDDAs. He has also alleged that the Sub Post Master and Postman, Neral as well as other two EDDAs who were also involved in the non-delivery of the huge mail have not been proceeded against or have been allowed to go unpunished by transferring them. It amounts to serious partiality and discrimination against him.

4. The respondents have filed a written statement in which they have stated that the Neral Post Office was earlier functioning in a rented building. It was shifted on first floor in SPM Quarter temporarily due to repair on ground floor portion. At the time of shifting, dumped letter bags were kept on the loft of SPM quarter which could not be easily seen by the Post Master. When a preliminary enquiry was conducted after the complaints, 3000 articles of 1st class mail, 15000 articles of 2nd mail and 45 articles of registered mail were detected which had remained undelivered. The detailed enquiry has established that the applicant himself had dumped most of the articles in the 6 canvas bags and all the 45 registered letters belonged to the beat of the applicant. Since the SPM was working alone, the records about entrustment of registered letters was not being maintained properly but the applicant on this count cannot escape from his responsibility of delivering the dak/registered letters which belonged to his beat.

5. We have heard Shri S.P. Kulkarni, learned counsel for the applicant and Smt. H.P. Shah appearing on behalf of the respondents.

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6. The main emphasis of the learned counsel for the applicant, during the course of hearing, was that there was no evidence to show that letters which were found undelivered were entrusted to the applicant. He stated that the applicant remained on leave only for 3 days and during this period, so many letters could not have accumulated. It was also argued by him that all these letters did not belong to the beat of the applicant. The SPM (Smt. Mainkar) was not maintaining proper documents and record of entrusting especially the registered letters to EDDAs. The SPM had thus miserably failed in the discharge of her supervisory duties due to which the Post Office was in a mess which fact has also been brought out in the order of the appellate authority. However, the applicant is being made the scape goat and has been removed from service, whereas no punitive action has been taken against the SPM, who has only been transferred.

7. The learned counsel for the respondents stated that even if it is admitted that the Post Office was not being supervised properly, the applicant cannot be absolved of his responsibility of delivering the dak entrusted to him. The applicant cannot deny that almost all the 45 registered letters found undelivered belonged to his beat. His remaining on unauthorised leave without providing a substitute itself is a gross act of misconduct which has been proved against him during the course of enquiry.

8. After giving careful consideration to the facts and circumstances, of the case we are of the view that the applicant has miserably failed in the performance of his duty. The very fact that so many important registered letters belonging to his beat remained undelivered for quite some time, is a very serious

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act of misconduct which cannot be ignored. The EDDAS have a very important responsibility of delivering dak in time and in case they fail in their duty, public at large suffers and it brings bad name to the organisation. The charges levelled against him have been proved beyond doubt in the detailed enquiry conducted by the Enquiry Officer in which the applicant had participated and was given due opportunity to defend himself. He had also filed an appeal against the penalty imposed on him. The appellate authority has issued a very detailed self-contained speaking order covering all the points raised by the applicant before rejecting his appeal.

9. It is well settled law that the Administrative Tribunals are not entitled to examine the evidence like an appellate authority nor they can interfere in the findings of the disciplinary authority unless the findings are totally perverse or based upon no evidence. The court cannot sit in appeal over the findings of the Enquiry Officer. If there is adequate evidence to reasonably support the conclusion of the enquiring authority, it is not the function of the court to review the evidence and to arrive at its own independent finding. In this connection, we rely on the judgement in the case of Govt. of Tamilnadu Vs. S.V. Raj, JT 1997(1) SC 349 and Apparel Export Promotion Council Vs. B.K. Chopra, JT 1999(1) SC 61. In the instant case, the penalty has been imposed on the applicant based on sufficient evidence produced during the course of inquiry which was conducted in accordance with the prescribed procedure. We do not, find any illegality in the penalty imposed on the applicant. It is also not found to be disproportionate to the gravity of charges proved against the applicant. There is

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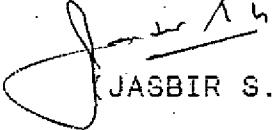
therefore, no justification, whatsoever, to interfere in the decision taken by the respondents.

10. In view of the foregoing, the OA turns out to be devoid of any merit and substance and the same is accordingly dismissed.

No order as to costs.


(S.K. MALHOTRA) 13/6/03

MEMBER (A)


JASBIR S. DHALIWAL

MEMBER (J)

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