

Registered A/D

5. Shri M. Vasudeva Rao,
Addl Central Govt. Standing Counsel,
High Court Building,
Bangalore - 560 001

12886

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

CORAM:

Hon'ble Shri Ch.Ramakrishna Rao, Member (Judicial)

Hon'ble Shri L.H.A.Rego, Member (Administrative)

Application No.473 of 1986/F

Date of Decision: 31.07,'86

Shri G.Keshavan : Applicant.

Versus

- | | | |
|---|---|--------------|
| 1. The Senior Superintendent
of Post Offices,
East Division, Bangalore.1. | } | Respondents. |
| 2. Director of Postal Services,
Bangalore Division, (HQ),
Bangalore.1 | | |
| 3. The Administrative Member,
P&T Board, New Delhi. | | |

Shri M.Raghavendra Achar : Advocate for Applicant.

Shri M.Vasudeva Rao : Advocate for Respondents.



JUDGEMENT

DELIVERED BY HON'BLE SHRI CH. RAMAKRISHNA RAO, MEMBER (J)

The Senior Superintendent of Post Offices (SSPO), East Division, Bangalore-1, initiated disciplinary proceedings on 24-2-1978 against the applicant for demanding and accepting a sum of Rs.50/- on 7-4-1977 at about 1530 hrs as an illegal gratification for securing a radio licence to one Shri P. Puttaraju and thereby failing to maintain absolute integrity and devotion to duty. The defence of the applicant was that the amount of Rs.50/- paid by Shri Puttaraju was towards radio licence fee and not as illegal gratification. The defence was however rejected by the SSPO, who passed an order dated 16-4-1980 dismissing the applicant from service. In appeal, the Director of Postal Services (DPS), Bangalore Region, considered the punishment of dismissal from service imposed on the applicant by the SSPO to be too severe and in his order dated 22-10-1980 directed that the pay of the applicant "be reduced by seven stages from Rs.480/- to Rs.396/- in the time-scale of pay of Rs.260/-8-300-E3-8-340-10-360-12-412-E3-12-400 for a period of six years". He further ordered that the applicant "will not earn increments of pay during the period of reduction and on the expiry of this period the reduction will have the effect of postponing his future increments of pay. The applicant submitted a petition to Director General of Posts & Telegraph (DGP&T), against the order of the DPS, who rejected it on 2.9.1981. Aggrieved by the order of the DGP&T, the applicant has filed this application.



2. Shri M. Raghavendra Achar, learned Counsel for the applicant, submits that though the DPS acting as the appellate authority, inflicted a lesser punishment on his client than originally done by the SSPD acting as the disciplinary authority, the punishment was out of proportion to the gravity of the charge in as much as the amount involved was only Rs.50/- and the version pleaded in defence was not wholly unbelievable; that this being the first occasion he should have been dealt with more leniently; that in a similar case relating to Shri Anantha Padmanabhan, Ex-Wireless Inspector, involving a charge of accepting a sum of Rs.150/- as illegal gratification, the penalty imposed by the disciplinary authority was reduction in pay by one stage for a period of only one year; that in the case of Shri Arumugham, SPM and Shri Anantha Rao, Postal Assistant who were charged with misappropriation of amounts in S.B. Postal accounts, the penalty imposed was reduction in pay by only two stages for a period of two years and therefore, the penalty imposed on the applicant may be reduced further.

3. Shri M. Vasudeva Rao, learned Counsel for the respondents, submits that the penalty imposed on other employees against whom departmental proceedings were initiated will not be a safe guide for modifying the penalty already imposed by the DPS on the applicant; that the rigour of the penalty has been reduced considerably by the DPS in the present case and there is no valid ground for granting relief to the applicant.

4. Normally we would be loathe to interfere with the order of the appellate authority, who has granted relief to some extent

...3/-



to the applicant. But taking into account that on no earlier occasion disciplinary proceedings had been initiated against the applicant and the amount involved in the charge levelled against the applicant is only Rs.50/-, we are satisfied that the applicant deserves a more sympathetic consideration than that given by the DPS. Though the penalty imposed on an employee in another proceeding may not operate as a precedent, it gives a clue to the reasonableness or otherwise of the penalty imposed in the present case and so viewed the instances cited by Shri Raghavendra Achar not altogether irrelevant. In Bhagat Ram v. State of H.P., 1983 SCC (L&S) 342, the Supreme Court has laid down that penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution of India. In view of the legal position enunciated by the Supreme Court in the decision cited supra we consider this to be a fit case for reducing further the penalty and the ends of justice would be met if the pay of the applicant is reduced by two stages from Rs.480/- to 456/- for a period of 2 years, on the expiry of which he will draw increments for the period of reduction and the reduction will not have the effect of postponing his future increments.

In the result, the appeal is partly allowed.



(L.H.A. Reg'd)
Member (AM)
31.7.1986

Sd/-
(Ch. Ramakrishna Rao)
Member (JM)
31.7.1986

- True Copy -

R. Thy 12/8/86
SECRETARY
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

CORAM:

Hon'ble Shri Ch.Ramakrishna Rao, Member (Judicial)

Hon'ble Shri L.H.A.Rego, Member (Administrative)

Application No.473 of 1986/F

Date of Decision: 31.07.'86

Shri G.Keshavan : Applicant.

Versus

- | | | |
|---|---|--------------|
| 1. The Senior Superintendent
of Post Offices,
East Division, Bangalore.1. | } | Respondents. |
| 2. Director of Postal Services,
Bangalore Division, (HQ),
Bangalore.1 | | |
| 3. The Administrative Member,
P&T Board, New Delhi. | | |

Shri M.Raghavendra Achar : Advocate for Applicant.

Shri M.Vasudeva Rao : Advocate for Respondents.

2. Shri M. Raghavendra Achar, learned Counsel for the applicant, submits that though the DPS acting as the appellate authority, inflicted a lesser punishment on his client than originally done by the SSPD acting as the disciplinary authority, the punishment was out of proportion to the gravity of the charge in as much as the amount involved was only Rs.50/- and the version pleaded in defence was not wholly unbelievable; that this being the first occasion he should have been dealt with more leniently; that in a similar case relating to Shri Anantha Padmanabhan, Ex-Wireless Inspector, involving a charge of accepting a sum of Rs.150/- as illegal gratification, the penalty imposed by the disciplinary authority was reduction in pay by one stage for a period of only one year; that in the case of Shri Arumugham, SPM and Shri Anantha Rao, Postal Assistant who were charged with misappropriation of amounts in S.B. Postal accounts, the penalty imposed was reduction in pay by only two stages for a period of two years and therefore, the penalty imposed on the applicant may be reduced further.

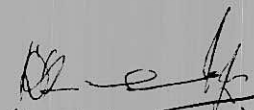
3. Shri M. Vasudeva Rao, learned Counsel for the respondents, submits that the penalty imposed on other employees against whom departmental proceedings were initiated will not be a safe guide for modifying the penalty already imposed by the DPS on the applicant; that the rigour of the penalty has been reduced considerably by the DPS in the present case and there is no valid ground for granting relief to the applicant.


4. Normally we would be loathe to interfere with the order of the appellate authority, who has granted relief to some extent

...3/-

to the applicant. But taking into account that on no earlier occasion disciplinary proceedings had been initiated against the applicant and the amount involved in the charge levelled against the applicant is only Rs.50/-, we are satisfied that the applicant deserves a more sympathetic consideration than that given by the DPS. Though the penalty imposed on an employee in another proceeding may not operate as a precedent, it gives a clue to the reasonableness or otherwise of the penalty imposed in the present case and so viewed the instances cited by Shri Raghavendra Achar are not altogether irrelevant. In Bhagat Ram v. State of H.P., 1983 SCC (L&S) 342, the Supreme Court has laid down that penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution of India. In view of the legal position enunciated by the Supreme Court in the decision cited supra we consider this to be a fit case for reducing further the penalty and the ends of justice would be met if the pay of the applicant is reduced by two stages from Rs.480/- to 456/- for a period of 2 years, on the expiry of which he will draw increments for the period of reduction and the reduction will not have the effect of postponing his future increments.

5. In the result, the appeal is partly allowed.


(L.H.A. Rego)
Member (AM)
31.7.1986


(Ch. Ramakrishna Rao)
Member (JM)
31.7.1986