

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 10th DAY OF APRIL 1987

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

Hon'ble Sri P. Srinivasan - Member (A)

APPLICATION No. 933/86

R.S. Abbaiah
Ex-Post Master,
Bodimuttanahalli
Kollegal Taluk
Mysore District

- Applicant

(Sri M. Raghavendra Achar, Advocate)

and

1. Senior Supdt. of Post Offices
Mysore Division, Mysore

2. Post Master General
Karnataka Circle,
Bangalore 1

- Respondents

(Sri M. Vasudeva Rao, Advocate)

This application came up for hearing
before this Tribunal and Hon'ble Sri. Ramakrishna
Rao, Member (J) to-day made the following

ORDER

This application was initially filed in
the High Court of Karnataka and subsequently transferred
to this Tribunal. The facts giving rise to this
application are, briefly, as follows. The applicant
while working as Branch Post Master ('BPM'), Bodimuttanahalli
Branch Office, was served a memorandum dated May 31, 78
(('Memo')) levelling 4 charges against him by the Senior
Superintendent of Post Offices - R1 ('SSPO'). The
Enquiry Officer ('EO') in his report dated 31.5.76
held that the charges were established. The report

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was accepted by R1 and the penalty of removal from service was imposed on the applicant in and by its Memorandum dated 18.11.1978. This order was confirmed by the appellate authority - R3. Aggrieved by these orders the applicant has filed this application.

2. Sri M.Raghavendra Achar, learned counsel for the applicant, contends that there is no material to substantiate the charges against his client and the order of removal from service passed by R1 based on the report of the EO is unsustainable.

3. Sri M. Vasudeva Rao, learned counsel for the respondents, contends that there is adequate material to which reference has been made in the report of the EO and the order passed by R1 removing the applicant from service does not suffer from any infirmity. The EO in his report regarding Charge I observed :

"If the BPM had noticed the irregularities on the delivered VP receipts immediately, soon after receipt from the EDMC/DP then there would not have any occasion for selected credit of the amount. The delay in credit of the value of the VP amount is substantiated by Sri Ramasetty former IPO Kollegal during the inquiry in which he has stated that the original date 12 on the VP delivered receipt was found corrected as 16 by Sri R.S.Abbaiiah, and as the handwriting of Sri RS Abbaiiah was well known to him. This single evidence is enough to substantiate that the dates on the delivered VP receipts were duly corrected by Sri R.S.Abbaiiah and taken into account according to his own convenient date. Again Sr R.S.Abbaiiah has committed another mistake that though dates were corrected as 16/4/73 the amount was not accounted on 16-4-73, it was taken into account only on 17-4-73. No remark was made in the B.O. Journal. The amount was first accounted for on 16-4-73 and struck the figures in B.O. account and it was taken on 17-4-73. The argument put forth by Sri R.S.Abbaiiah that it was wrongly taken into account on 16-4-73 instead of 16-4-73 is far from truth. If it was true why he had not written any remarks in the B.O. journal about the receipt and despatch of the delivered VP receipts. Both the B.O. Journal and the BO account book speaks the truth. No further evidence is considered to be necessary in this regard. Therefore the allegation is proved."

4. Based on the report of the EO, the disciplinary authority (R1) in his memo dated 18.11.78 held that the charges against the applicant were established. Regarding the first charge, he observed inter alia:

"It is the primary duty of the BPM to check/verify each and every article from the EDMC/DP and satisfy himself that the EDMC has worked properly. In this case the BPM neither noticed the corrections in the date on the two VP articles nor made any enquiries with the addressee of the articles to ascertain the correct delivery of the articles. If the receipts were checked immediately or the date of delivery was ascertained from the addressees, the real happening would have known. During the Inquiry the EDMC/DP and the addressees of the articles have clearly affirmed that the date of delivery were not put by their own hands. Sri N.M.Rangaswamy, EDMC/DP had returned the delivery VP receipts along with money without entering the dates on the delivered receipts. When the delivered receipts were received it is the sole responsibility of the BPM to guard against anything happening until its despatch to Account office. Further the BO journal clearly speaks that the articles were found to have been shown in deposit even though they were handed over to him earlier as there were no entries whether the articles were issued to EDMC/DP or whether they were shown as delivered and forwarded to Account office as documents, crediting the amounts into the accounts. This means that the BPM had kept the delivered VP receipts in his possession and later it was shown as delivered duly correcting the dates and credited the amounts into the accounts. As the delivered receipts bore corrections in date naturally the amount was also delayed in accounting."

Encl

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"....."

Since the VP receipts were having corrections in the dates, it can well be judged that VP amount was not credited into the accounts as soon as they were received from the EDDA/DP. The amount was believed to have been misappropriated by the BPM. If the amount was credited immediately then there would not have been any occasion to correct the date on the delivered VP receipts."

Regarding the second charge, RI observes:

"The department has prescribed certain books for transactions of the B.O. and such transactions should take place only in the prescribed books/journals. The BO journal is one of the important books which should be maintained by the BPM correctly and all transactions relating to issue and despatch should be entered. Day to day and struck the line for the each day transactions. The BO journal reveals the VP articles referred to were first entrusted the EDMC/DP on 7-4-73 but as per the VP receipts the corrected date of delivery is shown as 16/4/73 whereas the amount was taken into account on 16-4-73. There is no record to show that the said VP articles were entrusted to the EDMC/DP on 16-4-73 BPM was not obtaining the acknowledgement of the EDMC/DP in BO journal whenever these articles were entrusted to him. There is also no record to show when the BPM received the delivered VP receipts and VP amount from the EDMC/DP. Therefore in the said charge No.II, the charge that the BPM was not giving acquittance for receiving VP amount from the EDMPC/DP stand proved."

On the basis of the observations extracted above and for the reasons given in his order RI held ~~that~~ all the charges were ~~held~~ to have been established.

5. The appellate authority (R2) confirmed the findings and the penalty imposed by RI on the applicant in a speaking order dated 5-3-1982. The disciplinary authority as well as the appellate authority have given cogent reasons for holding that charges I, II and III were established. Charge IV merely sums up the earlier charges as amounting to "utter lack of devotion to duty" on the part of the applicant which also stood established along with the earlier charges. We see no reason to interfere with the findings of the IO, the disciplinary authority and the appellate authority. We also consider

that the penalty of removal from service imposed by R1 and confirmed by R2 is reasonable in the circumstances of the case. Though the third charge, which is held to have been proved may be considered venial and not deserving the punishment awarded, we are satisfied that the applicant having been found guilty of charges I & II, the penalty imposed on him was not excessive. We notice that under Rule 7 of the Extra Departmental Staff Rules, there are only three penalties imposable viz. recovery of pecuniary loss, if any, caused to the Government by negligence or breach of orders; removal from service without disqualifying for future employment and dismissal from service entailing disqualification for future employment. There being no pecuniary loss here, the first mentioned penalty is out of the question. We, therefore, hold that the charges I and II against the applicant having been established the penalty of removal from service passed by the respondents was not excessive.

6. In the result the application is dismissed.
No order as to costs.


MEMBER(J)


MEMBER(A)