

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 245/92
~~REXX NK~~

198

DATE OF DECISION 11-8-1992

R.R. Kulkarni

Petitioner

Advocate for the Petitioner(s)

Versus

Union of India & Ors

Respondent

Mr. P M Pradhan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S K Dhaon, Vice Chairman

The Hon'ble Mr. M Y Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-12 CAT/86-3-12-86-15,000

dry
V.C.

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT ROAD; BOMBAY-1

OA No.245/92

Shri R.R. Kulkarni
Sorting Assistant
S.R.O. RMS
'BM' DIVISION
Kolhapur

..Applicant

v/s.

1. Department of posts,
India, New Delhi
2. Chief Post Master General
(Maharashtra Circle)
Bombay-1
3. Superintendent of RMS
BM Division; Miraj

..Respondents

Coram: Hon. Shri Justice S.K. Dhaon, V.C.
Hon. Shri M Y Priolkar, Member(A)

APPEARANCE:

Applicant
present in person

Mr. P.M. Pradhan
Counsel
for the respondents

ORAL JUDGMENT:
(Per; S K Dhaon, Vice Chairman)

DATED: 11-8-1992

Applicant present in person. O

Shri P M Pradhan, Counsel for the respondents.

The Superintendent of R.M.S. on 30th
September 1988 directed that a sum of Rs.4,000/- be
recovered from the pay of the applicant at the rate
of Rs.125/- per month in 32 monthly instalments.

Feeling aggrieved the applicant preferred an appeal
which was disposed of on 31st August 1989. The
Appellate Authority maintained the order of the
Superintendent of RMS. It, however, directed that

(S)

instead of a sum of Rs.4,000/- a sum of Rs.1500/- only should be recovered from the applicant in monthly instalments of Rs.125/-. Still dissatisfied, the applicant preferred revision under Rule 29 of the CCS(CCA) Rules 1965. This revision has been dismissed by the order dated 26th July 1991. This order is being impugned in the present application.

A reply has been filed. A rejoinder too has been filed. The applicant, who appears in person, has been heard. Shri Pradhan who opposes this application has also been heard.

Admittedly on 11th October 1987 the applicant was acting as Assistant Mail Agent at Kolhapur. It is not in dispute that one Smt. V V Phadnis an Assistant Mail Agent, handed over certain number of bags to the applicant on the said date. This was about 1515 hours. In the explanation offered by the applicant it is admitted that the applicant enquired from Smt. Phadnis as to what was the exact number of bags which were sought to be delivered to him. She replied she had delivered 43 bags and the applicant received the bags from her and also said "O.K." after the receipt of the bags. It is also an admitted position

fly

that soon after, roughly within 15 minutes, the applicant detected that, in fact, only 42 bags had been delivered to him. He, within 15 minutes, reported the matter to the higher officer and immediately thereafter an investigation commenced. It is also not in dispute that the missing bag contained certain insured parcels.

It appears that disciplinary proceedings were initiated not only against the applicant, but also against Mrs. Phadnis as well. Like the applicant, she was also directed to pay a sum of Rs.4,000 in instalments. The crucial question of fact to be determined by us is whether the finding by of the revisional and appellate authority that the applicant did not act with due diligence when he received the bags from Mrs. Phadnis (^{is correct}) The finding is that there was some negligence on the part of the applicant. The explanation offered by the applicant itself shows that he received ~~the~~ bags in a casual manner, may be in good faith. The fact remains that before receiving the bags he did not count them. Therefore, it will be difficult for us, in proceeding under section 19 of the Act, to reappraise the evidence on record and there after disagree with the finding of the three authorities that the applicant has not acted with due diligence.

8/2

We have already indicated that the appellate authority reduced the punishment. Therefore, it cannot be said that the punishment given to the applicant is disproportionate to the guilt attributed to him. Therefore, on the question of punishment too we are not in a position to interfere.

The application cannot succeed. We dismiss it without any order as to costs.


(M Y Priolkar)
Member (A)


(S K Dhaon)
Vice Chairman