

CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH

ORIGINAL APPLICATION NUMBER 1015 OF 1993

TUESDAY, THIS THE 29TH DAY OF JUNE, 1999.

Shri Justice S.Venkataraman, .. Vice-Chairman.

Shri S.K.Ghosal, .. Member(A).

Kashinath Krishnarao Chavan,
S/o Shri Krishnarao Babaji Chavan,
Aged 52 years, working as
Public Relations Inspector (Postal)
Girgaon Head Post Office,
Bombay-400 004 and ordinarily
residing at Gurumukh Singh Chawl 'I'
Block/Room No.1, Premnagar,
Jogeshwari (East) Jogeshwar,
Bombay 400 060 .. Applicant.

(By Advocate Shri S.P.Kulkarni)

v.

1. Union of India through
Senior Post Master, Girgaon
Head Post Office, Bombay-4.
2. Director of Postal Services (City)
Bombay, Office of the Chief
Post Master General,
Maharashtra Circle,
Bombay-400 001.
3. Chief Post Master General,
Maharashtra Circle, General Post
Office Building, Bombay-400 001. .. Respondent.s

--

O R D E R

Justice S.Venkataraman, Vice-Chairman:-

The applicant who was working as Assistant Post Master is aggrieved by the ~~final~~ ^{minor} penalty of withholding of one increment imposed against him in ~~minor~~ ^{minor} penalty proceedings.

H

2. It is now not disputed that on 28-9-1989 the applicant joined duty at 5-00 p.m. It is stated that on that day when the day duty APM was incharge, he noticed that a registered list was missing from one of the bag and he had ^{made} error entry in the relevant register. The imputation against the applicant was that he did not report by telegraph the non-receipt of the document, that he did not send a report to SSRM, Hyderabad Division, that he did not keep a watch as required under Note-II below Rule 144 of P.O. Manual, that he did not report the non-receipt of the document to the Senior Post Master and that the registered abstract of 28-9-1989 was not tallied.

3. The applicant's defence was that when he reported for duty the day duty APM informed him about the missing of the registered list and he also told him that he ^{had} followed up formalities and that as such there was nothing for him to do ^{if there} was any failure on the part of the other APM to comply with the requisite formality. The Disciplinary Authority did not accept this position and has held that as the delivery section was supervised by 2 LSG APMs including the applicant, both were equally responsible for the function of the Branch as prescribed under the Rules and that he also should have checked whether the other APM had followed the procedure prescribed in such cases and should have reported the matter to the higher authorities and that he had failed in his duty. *that he cannot be held liable*

4. The Appellate Authority has affirmed the order of the Disciplinary Authority.

5. The learned counsel for the applicant has contended that

2/

there are no rules or departmental instructions which require an APM who was not on duty when the loss of a document is noticed to follow various formalities laid down in the Rules, that as it was the day duty APM who noticed the missing of the registered list it was his duty to comply with the formalities and that the applicant could not have been made liable for any lapse in that regard.

6. This is a case where the applicant has been penalised for lapses on the part of the other APM who actually noticed the loss of the document in question and who had also made an entry in the register. Neither the Disciplinary Authority nor the respondents have pointed out any specific rule or departmental instructions to the effect that even though the APM was not on duty at the time when the loss is noticed and he comes to duty later, he should comply with the prescribed formalities. It is not even alleged that the applicant was required to supervise the work of the day duty APM. As such, there was no reason for the applicant to check whether the day duty APM had performed all the acts which he was required to do on noticing the loss of the registered list. The applicant cannot be made liable for the negligence or lapse on the part of the other APM. The impugned orders proceed mainly on the basis that the applicant should have checked what the other APM had done and he should have noticed as to what the other APM had not done and by not checking the actions of the other APM the applicant had contributed to the loss occasioned to the Department, to say the least ^{this finding} is illogical and not based on any rules

h

or departmental instructions. The applicant cannot be made to suffer for the lapse of the other person.

7. For the above reasons, this application is allowed and the orders are quashed. No costs.



(S.K. GHOSAL)
MEMBER (A)



(S. VENKATARAMAN)
VICE-CHAIRMAN.

np-