

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 124/93

Transfer Application No.

Date of Decision 6.6.93

R.H.Jadhav

Petitioner/s

Shri C.B.Kale

Advocate for
the Petitioners

Versus

Sr.Suptd.of Post Offices, Aurangabad & Ors.

Respondent/s

Shri S.S.Karkera for Shri P.M.Pradhan

Advocate for
the Respondents

CORAM :

Hon'ble Shri. B.S.Hegde, Member (J)

Hon'ble Shri. M.R.Kolhatkar, Member (A)

- (1) To be referred to the Reporter or not ? *
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

MR Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

B.S.Hegde
(B.S.HEGDE)
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO.124/93

6th this the 1st day of June 1997

CORAM: Hon'ble Shri B.S.Hegde, Member (J)
Hon'ble Shri M.R.Kolhatkar, Member (A)

Ramsing Harising Jadhav
residing at Ravindra Colony,
Aurangabad-431 001, and
serving as Asstt.Postmaster
Aurangabad Head Post Office.
Address for service :-
C/o Shri C.B.Kale,
'SHREE' Niwas Kardal Saphale
Post Umbarpada Taluka Palghar
Dist.Thane PIN. 401 102.

By Advocate Shri C.B.Kale

... Applicant

V/S.

1. Sr.Suptd. of Post Offices
Aurangabad Dn. Aurangabad.
2. The Director of Postal Services
Aurangabad Region, Aurangabad.
3. Member (Personnel)
Postal Service Board,
C/o Director General Posts,
New Delhi.

By Advocate Shri S.S.Karkera
for Shri P.M.Pradhan, C.G.S.C.

... Respondents

O R D E R

(Per: Shri B.S.Hegde, Member (J))

Applicant in this OA. is challenging the
impugned orders dated 22.7.1991, 4.11.1991 and
19.11.1992 respectively.

2. The applicant was working as Sub-Postmaster
at Sarafa Post Office at Aurangabad. While he was
working as Sub-Postmaster, he was issued with a
charge-memo stating that :-

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"he has tried to deceive the department by the way of booking the V P letters Nos 157, 158 & 159 dtd. 21.12.84 for postage stamps worth of Rs.4.70 each instead of Rs.6.70, 6.65 & 5.70 respectively and RL 2002, 2014 for Rs.1.95 & 7.45 as shown on the original receipts and thereby contravened the provisions of rule 210 (2) of P&T Man Vol VI part I and also acted in contravention of Rule 3 (1) (i) (ii) of CCS (Conduct) Rules, 1964."

Applicant submitted representation and on receipt of his explanation the enquiry was concluded. The enquiry officer submitted his report on 14/16.5.1991 which was forwarded to the competent authority for its comments and also on receipt of the same, the disciplinary authority after considering the findings of the enquiry officer came to the conclusion that "the applicant who has served in the department for 25 years had shown doubtful and suspicious integrity by non observing the provision of Rule 210(2) of P&T Man.Vol.VI. However, considering long service of the official and with a view to give him an opportunity for improvement in future, I take a lenient view in the case and pass the following order that one increment of the applicant in the scale of pay Rs.1400-40-1800-EB-50-2300 which falls due on 1.11.1991 be withheld for a period of three years without cumulative effect". Against which the applicant preferred an appeal vide dated 30.8.1991. The appeal was rejected on 4.11.1991, against which he filed revision petition which was rejected by the competent authority on 19.11.1992 mentioning that the petitioner has not been able to adduce any material evidence which may go to refute the allegation. In fact, the petitioner has himself admitted the discrepancies in the postage on the articles mentioned in the charge sheet. It is further stated that :-

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"In the alleged case, there is no question of deceiving the department because I had granted receipts as per the weight and while booking of articles postage stamps were correctly affixed on the said articles. The discrepancies in postage stamps were noticed after booking of the article and that is also during the checking of ASPOs at the time of despatch." etc.

Further it is observed that the penalty has been imposed on the petitioner for good and sufficient reasons and is commensurate with the gravity of the lapses. Thereby the review petition is dismissed. Thereafter, the applicant has filed this OA. on 5.2.1993.

3. Heard the learned counsel Shri C.B.Kale for the applicant and Shri S.S.Karkera for Shri P.M.Pradhan for the respondents. During the course of hearing, the learned counsel for the applicant could not bring out any discrepancy in the enquiry or enquiry proceedings. Findings of the enquiry officer have been upheld by the disciplinary authority as well as revisional authority who have given sufficiently reasoned order. The contention of the respondents is after enquiry, the competent authority found that the applicant is negligent in his duty and did not care to adhere to the official procedure in not detecting the insufficient stamps affixed, therefore, the enquiry was held against the applicant for his misconduct and the disciplinary authority imposed punishment upon him. The respondents submit that rule 210 (2) is very clear and whole responsibility lies on the person who is supervising the staff working under him. The booking clerks are enjoined to confirm that articles bear the correct stamp, etc. It is not the case of the applicant that he is not given the opportunity. Full opportunity has been given during the enquiry and accordingly order was passed by the respondents.

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4. In the light of the pleadings, the question to be seen here is whether it is permissible for the applicant to challenge the impugned order merely on the allegation that the order is bad in law with the lack of material evidence. Since the competent authority has come to the conclusion that there was a lapse on the part of the applicant. Accordingly, minor penalty has been imposed on the applicant considering his past service. In view of the apex court order that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment can not be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern with, etc.

5. In the light of the above, we are of the opinion that the OA. is devoid of merit and is liable to be dismissed. Accordingly, the OA. is dismissed with no orders as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

B.S. Hegde

(B.S. HEGDE)
MEMBER (J)

MRJ.