

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 1015/94

15-11-99  
Date of Decision:

V.P.Dhaneshwar

Applicant.

Shri S.P.Kulkarni

Advocate for  
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri Karkera for Shri P.M.Pradhan

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. D.S.Baweja, Member (A)

Hon'ble Shri. S.L.Jain, Member (J)

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

*D.S. Baweja*  
(D.S.BAWEJA)  
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.1015/94

Dated this the 15<sup>th</sup> day of November, 1999.

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

Vishnu Pandurang Dhaneshwar,  
B.C.R.(HSG.-III), Supervisor,  
Aurangabad Head Post Office,  
Aurangabad-431 001.

...Applicant

By Advocate Shri S.P.Kulkarni

V/S.

Union of India through

1. Senior Supdt. of Post Offices,  
Aurangabad Postal Division,  
Aurangabad Head Post Office Campus,  
Aurangabad.

2. Director of Postal Services,  
Office of the Postmaster General,  
Aurangabad Region, Aurangabad.

...Respondents

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

ORDER

{Per : Shri D.S.Baweja, Member (A)}

The applicant while working as Dy.Post Master, Jalana Head Post Office was issued a charge-sheet dated 1.9.1992 for minor penalty with the charge that the applicant did not observe the provisions of Rule 5(1) and (2) of Post Office Savings Bank Manual Vol.II and also violated Rule 3 (1)(i), 3(2)(i) of CCS (Conduct) Rules 1964. The applicant on receipt of the chargesheet sought some documents as per his letter dated

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9.9.1992. However, this request was rejected by the respondents as per order dated 30.11.1992. The applicant thereafter submitted his defence on 19.12.1992 stating therein that he does not accept the charges levelled against him and further in absence of the documents sought by him, he is not able to prepare effective defence. The disciplinary authority then passed the order dated 22.3.1993 imposing penalty of recovery of Rs.10,000/- in twenty instalments. The applicant thereafter <sup>made</sup> prepared an appeal against this order but the same was rejected as per order dated 25.6.1993. Feeling aggrieved by these orders, the applicant has challenged the same through this OA. filed on 23.8.1994 seeking the following reliefs :-

- (a) To set aside the chargesheet dated 1.9.1992, order of the punishment dated 22.3.1993 and order dated 25.6.1993 rejecting his appeal.
- (b) After setting aside the impugned orders, direct respondents to give opportunity to the applicant to inspect the document as per his letters dated 9.9.1992 and 22.9.1992 and then pass the final order after considering his defence. Alternatively, hold that the punishment imposed is disproportionate and pass any order modifying the punishment.

2. The applicant has listed the following grounds in support of his case :-

- (a) The charges are vague. The imputation of misconduct against the applicant does not disclose the clear and specific details of losses and as to how the applicant has failed to discharge his duty.
- (b) Non supply/inspection of the documents demanded is denial of reasonable opportunity to defend his case.
- (c) There is no evidence led against the applicant in the chargesheet which could clearly establish the nexus/consequential loss.

3. The respondents have in the written statement submitted that from 15.6.1989 to 7.5.1990, the applicant while working as Deputy Post Master was assigned the duty to supply blank cash certificates and pass books to the Sub Post Offices under the Jalana Head Office and supervision of work of cash certificates and R.D. counter etc. along with other duties assigned to him. The applicant did not exercise a checkover the maintenance of NC-12(a) register as required as per his duties and under his custody. His failure to supervise and exercise proper check of the blank cash certificates facilitated Shri K.N. Satpute, Sub Post Master Jalana to misappropriate the Kisan Vikas Patras as

mentioned in the chargesheet. If the applicant had performed the duty of supervision and checking properly, the fraud could have been avoided which resulted in loss of the Government money. Respondents contend that chargesheet contains specific charges supported by full facts disclosed in the statement of imputation. As regards the supply of the documents demanded by the applicant, his request was carefully considered and the documents sought by the applicant were not considered relevant and the applicant was accordingly replied as per the order dated 30.11.1992. The disciplinary authority after carefully considering the facts, imposed the punishment of recovery of Rs.10,000/- as per order dated 22.3.1993. The appellate authority rejected the appeal with application of mind on the various points raised by the applicant.

4. The applicant has not filed the rejoinder reply for the written statement.

5. We have heard the arguments of Shri S.P.Kulkarni and Shri S.S.Karkera for Shri p.m.Pradhan, learned counsel for the applicant and respondents respectively.

6. The first ground of challenging the impugned order is that the charges are vague and the same do not disclose in specific details as to how the applicant has failed in his duty which resulted in loss to the Government money. The respondents



have contested this contention stating that the charges are specific and statement of imputation clearly brings out the lapses of the applicant. Keeping in view the rival stand, we have carefully looked at the article of charges and the statement of imputation and we are not persuaded by the stand of the applicant. The statement of imputation clearly brings out that the applicant failed to exercise check over the maintenance of NC-12(a) register which contributed to misappropriation of the public money by the Sub Post Master Jalana. Further, on going through applicant's letter dated 9.9.1992 and 19.12.1992 (Annexures. A-5 & A-8) we do not find that the such an issue was raised by him. In the letter dated 19.12.1992, the applicant has stated that he does not accept the charges without any qualification which would imply nothing but that the applicant understood the charges and what he was required to meet with. In the light of these observations, there is no substance in this contention of the applicant.

7. The second ground is that non supply of the documents demanded by the applicant has denied the reasonable opportunity to the applicant to put up his defence. The applicant asked for the documents by his letter dated 9.9.1992 and followed by reminder dated 22.9.1992 wherein the applicant offered to have inspection of the document if the copies cannot be supplied. The competent authority rejected his request for the documents as per his order dated 30.11.1992 stating that the demanded documents

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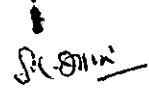
were not relevant to the case for which the applicant has been chargesheeted. Thereafter, the applicant replied to letter dated 30.11.1992 by his letter dated 19.12.1992 stating that applicant does not accept the charges. We find that the applicant did not pursue the matter further till the impugned punishment order was issued. From the letters dated 9.9.1992 and 22.9.1992, though we note that the applicant had asked for the documents but did not bring out the relevance of each document and as to how non supply of the same will prejudice his case. In his appeal dated 14.5.1993 (page 35 of the Paper Book), the applicant has raised the point of non supply of the documents demanded but has not amplified as to how the documents would have helped in framing his defence. The main charge against the applicant was that he did not maintain the NC-12(a) register as per rules and the applicant was to defend the same. The applicant has to demonstrate the relevance of the demanded documents to disprove this charge and how the non availability of the demanded documents will prejudice his case. From the material on record, we do not find that the applicant has made out a case of prejudice. In this connection, we refer to judgement of the Hon'ble Supreme Court in the case of State Bank of Patiala vs. S.k.Sharma, 1996 92) SLR 631 S.C. In view of what is laid down in this judgement, we are of the considered view that non supply of the documents does not vitiate the punishment.

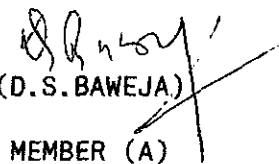


8. The third and the last ground is that there is no evidence led against the applicant in the chargesheet which establishes nexus of his lapse with the alleged loss sustained of public money. On going through the chargesheet and the orders of the disciplinary authority, we find that the lapse on the part of the applicant is of not maintaining NC-12(a) register properly and the same has been clearly brought out. This is the case of the charge which the applicant had to refute. It is settled law by the Hon'ble Supreme Court in catena of judgements (Indian Oil Corporation Ltd. vs. Ashok Kumar Arora (1997) JT (2) SC 367, State of Tamil Nadu vs. S.Subramaniam (1996) 33 ATC 317, Union of India & Ors. vs. A.Nagamalleswar Rao, 1998 SCC (L&S) 363), the scope of judicial review in case of disciplinary proceedings when challenged is limited to rectification of errors of law, and procedural errors leading to manifest injustice or violation of principles of natural justice. Evidence cannot be reappreciated as if Tribunal/High Court is an appellate court and reach on its own conclusions on the sufficiency of the evidence or the correctness of conclusion which is based on the same evidence. In the present case, we do not find that the findings of the disciplinary authority are not supported by the material on the record and it is a case of no evidence as made out by the applicant. We, therefore, are unable to appreciate any merit in this contention of the applicant.

9. The applicant has also taken a plea that punishment imposed is disproportionate to the charges and same deserves to be modified. As held by the Hon'ble Supreme Court in the case of Government of Andhra Pradesh vs. B.Ashok Kumar, 1997 SCC (L&S) 1215, <sup>as/for</sup> imputation of penalty consistent with the magnitude of misconduct is the right of the disciplinary authority. Further, Tribunal in exercise of review power normally cannot interfere with punishment imposed except where it shocks the conscience (B.C.Chaturvide vs. Union of India (1996) 32 ATC 64) In the present case, the penalty imposed is minor in nature and does not shocks the conscience as to warrant any judicial interference. Therefore, this prayer of the applicant cannot be allowed.

10. In the result of the above discussion, we conclude that none of the grounds taken by the applicant in assailing the impugned orders have any merit to vitiate these orders. The OA is accordingly dismissed with no order as to costs.

  
(S.L.JAIN)  
MEMBER (J)

  
(D.S.BAWEJA)  
MEMBER (A)

mrj.