

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 742/95.

Wednesday, this the 22nd day of December, 1999.

Coram: Hon'ble Shri Justice Ashok Agarwal, Chairman,
Hon'ble Shri D.S. Baweja, Member (A).

Kisan Balaji Misal,
Plot No. 2,
Vivekanandnagar,
Opp. Tehsil Office,
At P.O. & Taluka
Jalna - 431 203.
(By Advocate Shri S.P. Kulkarni)

... Applicant.

vs.

1. Union of India through
Senior Superintendent of Post
Offices, Aurangabad Postal Division,
Aurangabad - 431 001.

2. Director of Postal Services,
O/o. Postmaster General,
Aurangabad - 431 002.

3. Postmaster General,
Aurangabad Region,
Aurangabad - 431 002.
(By Advocate Shri P.M. Pradhan)

... Respondents.

: ORDER (ORAL) :

(Per Shri Justice Ashok Agarwal, Chairman)

By the present OA, the applicant seeks to impugn an order passed by the Senior Superintendent of Post Offices, Aurangabad Division who is the Disciplinary Authority in the instant case, whereby a minor penalty of recovery of an amount of Rs. 18,000/- from the applicant in 36 equal instalments of Rs. 500/- p.m. from his salary was imposed against him. The said penalty in appeal has been reduced by the Director of Postal Services, Aurangabad Division who is the Appellate Authority in the instant case, whereby the aforesaid punishment has been reduced from Rs.

18,000/- to Rs. 5,000/-. Both the aforesaid orders are impugned in the present OA.

2. Applicant at the relevant time was working as an Accountant at the Jalna Head Post Office. However, during the period 3rd July, 1991 to 13th August, 1992 he worked as an officiating Postmaster in the very Head Post Office. The periods during which he worked as officiating Postmaster are as follows:

"03.07.1991 to 10.09.1991	= 70 days
18.05.1992 to 20.05.1992	= 03 days
22.06.1992 to 08.07.1992	= 17 days
15.07.1992 to 13.08.1992	= 30 days"

3. Applicant vide his Report dt. 14th August, 1992 (Ex. A-13) brought to the notice of the Senior Superintendent of Posts, Aurangabad that the Sub Postmaster, Banoti was keeping excess cash without furnishing details of the liabilities w.e.f. 3.8.1992 onwards. In the report he furnished the following details of the cash retention by the said Sub Postmaster, Banoti:

Maximum C balance	Cash Returned	Date
4,000	65058	03.08.92
4,000	64059	04.08.92
4,000	63939	05.08.92
4,000	66134	06.08.92
4,000	71933	07.08.92
4,000	73190	08.08.92
4,000	70959	10.08.92
4,000	78871	11.08.92

4. The disciplinary proceedings appear to have been initiated against the aforesaid Sub Postmaster and others, this included a disciplinary proceedings against the applicant. The said disciplinary proceedings were for the imposition of a minor penalty.

5. After a charge sheet was issued to the applicant, the

applicant by his representation sought inspection of certain documents. He also prayed that a departmental enquiry be conducted into the allegations levelled against him. As far as the inspection of documents is concerned, the documents were ^{germane} ~~genuine~~ to the enquiry, it appears was furnished to the applicant. However, his prayer for holding of a departmental enquiry was turned down. His prayer for inspection of further documents was also turned down on the ground that the documents were not relied upon for the purpose of making good the charges levelled against him. The orders imposing minor penalty as already indicated were issued against the applicant.

6. We have heard the learned counsel appearing for the contending parties and we find that this is a fit case where the prayer made by the applicant for conducting a departmental enquiry ought to have been ^{conceded} ~~considered~~ before imposing the penalties which are impugned in the present OA. It cannot be overlooked that the entire proceedings were initiated on the basis of the report submitted by the applicant on 14th August, 1992 (Ex. A-13), the said report relates to retention of excess cash during the period 3.8.1992 to 11.8.1992. This excess retention was brought to the notice of the higher authorities by the applicant by his report which was submitted soon thereafter on the 14th August, 1992. All that is contended on behalf of the respondents is that the applicant has merely initialled the documents which disclose the aforesaid excess retention, but he has failed to note his remarks on ~~these~~ every documents. All that can be said in this behalf is that instead of his having noted his remarks on the documents themselves, he has proceeded to intimate the said excess retention by his report submitted on

14.8.1992. If one has regard to the aforesaid facts, we have no hesitation in holding that this was a fit case where the prayer made by the applicant to hold a departmental enquiry should have been acceded to. It is possible that after holding the enquiry either finding may be possible one of guilt or of innocence. However, having regard to the aforesaid facts, we find that the present order imposing the impugned penalty has been issued in breach of principles of natural justice. The said orders, in the circumstances, are quashed and set aside. It goes without saying that it will be open to the respondents, if they are so advised, to hold a formal departmental enquiry and thereafter proceed to pass appropriate orders in accordance with law. The present OA is allowed in the aforesaid terms. The amount of Rs. 5,000/- which has already been recovered from the applicant in pursuance of the Appellate Order be refunded to the applicant within a period of two weeks from service of this order on the respondents. However, in the facts and circumstances of the case, there will be no order as to costs.

(D.S. BAWJAH)

MEMBER (A)

(ASHOK AGARWAL)
CHAIRMAN.

B.