

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO: 488/1997

DATE OF DECISION: 31/05/2001

Shri D.S.Kadam

Applicant

Shri C.B.Kale

-----Advocate for
Applicant.

Versus

Union of India & Anr.

-----Respondents.

Shri S.S.Karkera

-----Advocate for
Respondents.

Coram:

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

Hon'ble Shri Govindan S Tampi, Member(A)

1. To be referred to the Reporter or not? *Y*

2. Whether it needs to be circulated to
other Benches of the Tribunal? *no*

3. Library. *Y*

(Signature)
**(GOVINDAN S TAMPI)
MEMBER(A)**

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:488/1997
DATED THE 31st DAY OF MAY, 2001**

**CORAM:HON'BLE SHRI S.L.JAIN, MEMBER(J)
HON'BLE SHRI GOVINDAN.S.TAMPI, MEMBER(A)**

Shri D.S.Kadam,
Postal Assistant,
Shankar Road Post Office,
Dadar, Mumbai.

... Applicant

(By Advocate Shri C.B.Kale)

V/s.

1. The Sr.Supdt. Post Offices,
Mumbai City, West Division,
Dadar Mumbai - 400 014.

2. Union of India,
Through The Director of Postal Services,
(Mumbai Region),
Mumbai 400 001.

... Respondents

(By Advocate Shri S.S.Karkera)

(ORAL)(ORDER)

Per Shri Govindan S Tampi, Member(A)

The applicant has challenged in this application the orders passed by disciplinary authority withholding the applicant's increment for a period of six months and Appellate Order passed on 11/7/96, confirming the same.

2. Heard Shri C.B.Kale, the learned counsel for the applicant and Shri S.S.Karkera, proxy for Shri P.M.Pradhan, Counsel for Respondents.

3. In this case the proceedings are found to have been initiated by issuing charge sheet dated 12/1/96 (Annexure A-7) where it has been alleged that during the course of enquiry by the Assistant Superintendent, in view of the reported misuse of date stamps in the Delisle Road Post Office it was found that

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that one group i.e. Anil Mailing Service produced 11 fake dockets to UTI as proof of posting 6,69,232 articles bearing date stamp of Delisle Road P.O where as the said mailer has posted only 3,66,899 articles. The applicant who was working as Mail PA-I of Delisle Road P.O. failed to observe the provision of Rule 21 which resulted in misuse of date-stamp. The applicant's statement was also recorded in this connection where he had stated inter alia that the mischief had not taken place with his knowledge and there was no error on his part and he should not be held guilty. He also stated that condition of working in his office also should be taken into consideration before a decision is taken. According to him none from Anil Mail Service had not at all attended the office during his working hours. The same was forcefully reiterated by him in his reply to the charge sheet, specially emphasising that he was not guilty of any negligence at all. While considering the same the disciplinary authority observed that the mere fact that there were similar other date stamps did not prove in any way whether that misuse of the dates stamp did not take place when the applicant was on duty. Evidently therefore, the applicant had not been exercising proper supervision over the Group 'D' staff who were using date stamp under his charge. The disciplinary authority therefore imposed on the applicant the penalty of withholding of next increment for a period of six months without cumulative effect. Appellate Authority, i.e Director, Postal Services disposed of the appeal on 11/7/96 holding that the disciplinary authority's

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punishment order was issued after considering all the issues. He stated that the point to be noted was that the franking article are accepted in the Mail Branch and the mailers have no access to other Branch. The official has admitted in his statement that the date stamp is used by Group 'D' whenever he was busy in attending other work and hence the applicant was guilty of not attending to his supervisory work properly. He therefore rejected the appeal and Hence this application.

4. During the oral submissions before us today, Shri Kale, learned counsel for applicant reiterates the pleadings made in the application and states that the proceedings have been taken up by Disciplinary authority and Appellate authority without affording the applicant an opportunity of refuting the charge and also without considering the fact that he was not personally concerned with the section and it was not actually possible for him to keep a watch over the Group 'D' staff when he was attending to other work. Shri Kale also stated that the proceedings have been completed without conducting any enquiry into the facts. Therefore principles of natural justice are violated and he has been punished the basis of averments of group 'D' staff, pleads Shri Kale. It is necessary that the Tribunal should in the circumstances interfere and render him justice according to the learned counsel.

5. Rebutting the above, Shri Karkera, the learned counsel for the respondents indicated that the proceedings were conducted after necessary investigation and the charge sheet was issued and penalty was imposed on the applicant after he had submitted the representation denying the charges. He had chosen not to cross


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examine the witness inspite of opportunity being given. He cannot at this late stage come up and seek an interference of the Tribunal. The proceedings having been followed correctly and in accordance with laid down rules and instructions, no interference is warranted. He also stated that punishment accorded by Disciplinary Authority and upheld by Appellate Authority was indeed a minor one i.e. that of withholding an increment for a period of six months. It is neither harsh nor unjustified and did not call for any modification.

6. We have given anxious consideration to the deliberations made by both parties and seen the record. The applicant seeks to assail the impugned orders on the basis of the plea that he was not given opportunity to question and challenge the evidence brought on record against him. We further note that as proceedings were initiated under Rule 16 of CCS CCA Rules, it was necessary for him to have asked for enquiry where cross examination of witnesses was necessary. Not having done so at the relevant time and having kept quiet it is too late in the day for him to come up and challenge the proceedings. The applicant also has averred that when he was busy in the counter, Group 'D' officials were looking after the work relating to date stamps and it was not possible for him to attend to both item of the work at the same time. Admittedly he had not exercised the care and caution required of him. His plea that when he was present M/s. Anil Mail Service had not visited the office also does not alter the situation as to the misuse of date stamp which had actually taken place. Thus it was a case of his failure in supervising duties. Disciplinary authority has therefore come to the conclusion that the applicant had to be punished. Hence the



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penalty of next increment for a period of six months. The same has been upheld by the Appellate Authority and that too properly. The penalty imposed cannot in any way be considered as harsh and unconscionably high as to shock the judicial conscience.

7. We do not therefore feel that applicant has made out any case warranting our interference in the matter. The application thus fails and is therefore dismissed, with no orders as to costs.


(GOVINDAN S. TAMPI)
MEMBER(A)


(S.L. JAIN)
MEMBER(J)