

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: MUMBAI**

CAMP AT AURANGABAD

ORIGINAL APPLICATION NO. 545/1997

MONDAY, THE SIXTH DAY OF AUGUST, 2001

CORAM:

**HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
HON'BLE SHRI M.P. SINGH. MEMBER (A)**

**Shri Lahu Pandurang Peddawad,
S/o Shri pandurang Peddawad,
Age 47 years,
Ex. E.D.B.P.M., Nalgir (Udgir),
District - Osmanabad.**

... Applicant

By Advocate Shri S.P. Kulkarni

Vs.

- 1. Union of India, through
Superintendent of Post Offices,
Osmanabad Postal Division,
Osmanabad-413 501.**
- 2. Director of Postal Services,
Aurangabad Region,
Office of the Postmaster General,
Aurangabad, Aurangabad-431 002.**

... Respondents

By Advocate Shri P.M. Pradhan



ORDER (ORAL)


Hon'ble Shri M.P. Singh. Member (A)

1. The applicant has challenged the order dated 25th October, 1995 passed by the respondents removing him from service.
2. The applicant was appointed as Extra Departmental Branch Postmaster at Nalgir on 5th February, 1975. On 4th August, 1990 one Shri V.G. Jain, depositor of R.D. Accounts No.160338 and 167630 handed over an amount of rs.25/- and Rs.50/- denomination to the applicant for being deposited in the passbook. The applicant accepted the passbook and made entry of deposits in the passbooks and R.D. Journals. As the applicant was sick on that day, he lost sight of making entry of R.D. deposits in the receipt side and remittance of the amount to the payment side. As a result of which, balance of transaction in the Branch Office amount was no doubt a mistake on his part.
3. Departmental proceedings were initiated against the applicant for the above lapses and enquiry officer was appointed. The enquiry officer submitted his report with the finding that the charges are not proved. The Disciplinary Authority disagreed with the report of the inquiry officer and imposed the penalty of



removal from service vide order dated 09.9.1991. The applicant preferred an appeal against the order of the Disciplinary Authority and the same was rejected by the Appellate Authority on 04.11.1991. Aggrieved by this, the applicant filed an application in this Tribunal as OA No. 940/92 against the order of the Disciplinary Authority and Appellate Authority. The Tribunal vide its order dated 15.2.95 quashed the order of the Disciplinary Authority and Appellate Authority and directed the respondents to hold denovo enquiry against the applicant.

4. A denovo inquiry was ordered by the first respondent. The inquiry officer submitted his second report on 14th September, 95 holding the charge of non accounting for the deposit of amount of Rs.75/- in Branch office at Nalgir Branch Office^v as partly proved. But the charge of misuse of amount for his private purpose and doubtful integrity of the EDBPM was not proved. The Disciplinary Authority forwarded the report of the enquiry officer dated 20.9.95 to the applicant for submitting his representation. The disciplinary Authority, thereafter passed the order on 25th October, 95 imposing the penalty of removal from service. The applicant preferred an appeal on 8th November, 95 on which no decision was taken by the Appellate Authority. He, therefore, filed this OA seeking the relief of quashing and setting aside the punishment order dated 25th October, 95 and also sought a direction to reinstate the applicant with all consequential benefits.



5. The respondents, in their reply, have stated that the amount which was taken by the applicant on 4th August, 90 was not accounted on the same day. When the Mail Overseas visited Nalgir Branch Officer, he pointed out the said serious mistake to the applicant and after ^{that} he credited the said amount on 17th September, 90. An enquiry was conducted against the applicant for the aforesaid lapse. The applicant was given opportunity to submit his defence. The relevant documents like daily account etc., of the Nalgir Branch Office was shown to the applicant in the enquiry. The enquiry report was also given to the applicant to ^{make proper &} ~~give appropriate~~ representation to the Disciplinary Authority, ⁱⁿ ~~in order to submit his representation.~~ However, he failed to make any representation. The Disciplinary Authority, after taking into consideration the entire facts of the case, imposed the punishment of removal from service in accordance with the rules, which is just and proper. Aggrieved by this, an appeal was preferred on 8th November, 95, which had been decided by the Appellate Authority on 11th August, 1997 and the said order was communicated to the applicant through SDI (P) Udgir vide his letter dated 20th August, 1997. In view of the aforesaid submissions, the application deserves to be dismissed.

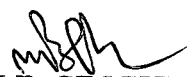
6. Heard learned counsel for both the rival contesting parties and perused the records. During the course of the arguments, the learned counsel for the applicant submitted that the charges levelled against the applicant, ^{are &} ~~one~~ only partly proved.



The Disciplinary Authority while disagreeing with the report of the enquiry officer, has not recorded any reason. He also submitted that the penalty imposed on the applicant is disproportionate to the charges levelled against the officer. During the course of the arguments, the learned counsel for the applicant was asked as to whether the appeal has been decided. He stated that during the pendency of the OA, the appeal has been decided, but he has not challenged the order passed by the Appellate Authority.

7. After hearing both the learned counsel and after perusing the records, we find that the applicant has challenged only the order of the Disciplinary Authority. During the pendency of the OA, his appeal has been decided by the Appellate Authority. Therefore, the order of the Disciplinary Authority has merged in the order of the Appellate Authority. The applicant has not sought any amendment to the OA for challenging the order of the Appellate Authority. Since the order of the Appellate Authority is not under challenge before us, the OA fails. No relief can be granted against an order, which is not under challenge.

8. For the reasons recorded above, the OA has no merit and accordingly dismissed. No order as to costs.


(M.P. SINGH)

MEMBER (A)


(BIRENDRA DIKSHIT)

VICE CHAIRMAN