

67

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 485/97

Date of Order : 23rd Feb 97

BETWEEN :

Y.Abbulu

.. Applicant.

AND

1. Union of India, rep. by
Chief Postmaster General,
A.P.Circle, Hyderabad.
2. Sr.Supt. of Post Offices,
Bhimavaram Divn.,
Bhimavaram.
3. Asst.Supt. of Post Offices,
Palakol Sub Division,
Palakol.

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.T.P.V.Subbarayudu

Counsel for the Respondents

.. Mr.B.N.Sharma

- - -

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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68
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O R D E R

XAs per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.) X

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None on either side. The applicant was also absent when the OA was taken up for hearing. Hence we were not inclined to adjourn the proceedings as the OA was filed on 11.4.97. Therefore, the OA is decided on the basis of the material available on record in accordance with the rule 15(1) of the C.A.T. (Procedure) Rules 1987. Heard Sri. B.V. Sharma, Ld. Learned Counsel today.

2. During the year 1993-94 the applicant was working as EDMC/DA in Chittavaram Sub Office in West Godavari District. He was entrusted ^{with} ~~to~~ deliver ^{of} money order amounts to ^{the} ~~the~~ respective payees.

M.O.No. 2201 dated 7.1.94 for Rs.400/- of Sanathnagar Post office was payable to Smt. B.Ratnamala.

M.O.No.717 dated 20.1.94 for Rs.200/- of Gandhibhavan post office was payable to one EDA Navaratnam.

M.O.No. 4849 dated 4.1.94 for Rs.200/- of Administrative Building, Sangareddy Post office was payable to Smt.E.Damayanti.

M.O.No. 671 dated 3.12.93 was payable to E.Samuel.

3. These Money Orders were entrusted to the applicant for paying the amount to the respective payees. The applicant had submitted the paid vouchers to the BPM in respect of B.Ratnamala

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on 11.1.94.
as having paid to her/ However the amount was not paid to
Smt.B.Ratnamala on the date i.e. 11.1.94 or earlier to return
of the paid vouchers to the BPM.

4. The applicant paid the amount to one E.D.Paul though
the name of the payee was E.D.Navaratnam.

5. The applicant submitted paid voucher to BPM as having
paid to the payees. In fact amounts were not paid to the
payees earlier to the submission of the paid vouchers to the
BPM. The payees had complained to the BPM regarding non-
receipt of the amounts. They had even submitted their
written representations.

6. Hence the applicant was proceeded with under Rule 8 of
the ED Staff (Service and Conditions) Rules 1964. He was
put off from duty. He was served with the charge memo dated
27.9.94. The applicant denied the charges. An enquiry into
the charges was conducted by the Assistant Superintendent of Post
Offices, Bhimavaram/^{who} was appointed as the enquiry officer. The
enquiry officer submitted his report dated 5.4.95. The enquiry
officer held charges against the applicant as not proved.

7. The disciplinary authority, namely, the A.S.P.O., Palakol
Sub Division Palakol after considering the report of the enquiry
officer disagreed with the findings recorded by the enquiry
officer and for the reasons recorded by him in the punishment



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order dated 12.5.95 held the charges against the applicant

as proved and imposed the penalty of dismissal from service, on the applicant.

The order of the disciplinary authority dated 12.5.95 is at pages- 19 to 27 of the OA.

8. Against the order of dismissal the applicant submitted an appeal dated 21.6.95 before the Senior Superintendent of Post Offices, Bhimavaram division, Bhimavaram. The appellate authority by his proceedings dated 11.4.96 rejected the appeal and confirmed the punishment. The order of the appellate authority dated 11.4.96 is at page- 13 to 18 of the OA.

9. The applicant has filed this OA challenging the order dated 12.5.95 passed by the disciplinary authority and the order dated 11.4.96 passed by the appellate authority, praying to quash them holding them to be arbitrary, illegal against the rules and to grant him the consequential benefits.

10. The applicant has challenged the impugned orders on the following grounds :-

Both the disciplinary and appellate authorities were hand in glove with an intention to punish the applicant. Both the authorities failed to analyse the evidence concluded by the enquiry officer, independently and on proper application of mind. He submits that there was no evidence to substantiate the charges levelled against him.



11. The appellate authority has contravened the Rule 27(2) of the CCS (CCA) Rules 1965.

12. The appellate authority relied upon the statements of the witnesses obtained during the preliminary enquiry to sustained the punishment and the same is against the CCA Rules. The observations of the appellate authority are not correct.

13. The appellate authority was under an obligation to consider the requirements detailed in Rule 27(2) of the CCS (CCA) Rules 1965. The order of the appellate authority is not sustainable in law.

14. The respondents have filed a reply, submitting that all ^{opportunities} ~~^~~ were given to the applicant during the enquiry. The applicant attempts to take advantage of some ^{here and there} portion in the deposition of B.Ratnamala favouring him. The said B.Ratnamala during the course of her examination in chief admitted her earlier complaint as regards the non-receipt of the money either on 11.1.94 or the date on which she filed the complaint. order amount. Further when questioned by the enquiry officer she categorically stated that she had described or narrated the incidents that had taken ^{place} before filing the complaint. Her son had sent the amount and that she had not received the amount earlier. The amount was paid to her only after 25.1.94. The paid voucher contained the date prior to 25.1.94, which clearly

2

showed that the applicant had paid the money order amount to B.Ratnamala only after he submitted the paid voucher to the B.P.M. The applicant had submitted the paid voucher on 11.1.94. As on 11.1.94 or earlier there-to, B.Ratna Mala had not affixed her signature on ^{the} money order and had not received the money order amount. Hence the disciplinary authority rightly held the said charge as proved disagreeing with the findings recorded by the enquiry officer. // ^{14(a)} Likewise, the disciplinary authority ^{-ed} form an opinion that Navaratnam in his statement dated 23.4.94 had stated that the amount payable to him was paid to his son E.Paul and E.Paul also corroborated the said fact stating that his father was out of station. The applicant disputed the genuineness of the statement of Navaratnam dated 20.12.94. This clearly showed that he was accepting the facts mentioned therein. The applicant himself has substantiated the payment of the money order amount to E.Paul earlier to his submission of paid vouchers to the BPM. In that view of the matter the disciplinary authority rightly disagreed with the findings of the enquiry officer and imposed the punishment.

15. The appellate authority has considered the grounds raised in the appeal and for the reasons recorded in the order rejected the appeal. There are no reasons to interfere with the impugned orders. Further they rely on Rule No.106 and Note 1 to Rule No.127 of the Postal Manual Vol.IV para-3.


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16. The fact is not in dispute that the applicant was entrusted with payment of money order amounts to the payees. As per the postal manual the applicant was expected to pay the amount only to the payee mentioned in the money order. He was not expected to pay the money order to any person other than the payee.

17. When once the applicant submitted the paid vouchers to the BPM it is presumed that he had performed his duties diligently in paying the amounts to the respective payees only. Paid vouchers should have contained the signature of the payees and the date of payment ^{as} well.

18. In the case of B.Ratnamala the applicant had submitted the paid voucher to the BPM on 11.1.94. That means the applicant had not paid the amount to Smt.B.Ratnamala either on 11.1.94 or earlier to that date. Admittedly, Smt.B.Ratnamala had not affixed her signature on the paid voucher submitted by the applicant on 11.1.94 to the BPM.

19. Smt.B.Ratnamala learnt the amount being remitted by her son through her son's friend and then made enquiries with the BPM. When she made enquiries with the BPM she had not received the amount sent by her son. The applicant paid Rs.400/- to Smt.B.Ratnamala after 25.1.94 i.e. when he learnt that B.Ratnamala had lodged a complaint with the BPM.




20. Even in the case of E.D.Navaratnam the applicant had no business to pay to E.D.Paul though he was his son as the postal rules stipulate to pay the amount to payee only and not to any other person.

21. During the enquiry it appears Smt.B.Ratnamala and E.D.Navaratnam attempted to vary their earlier statements in order to save the skin of the applicant. They knew fully well the applicant had not paid the amount earlier to submission of the paid vouchers to the BPM.

22. When the charges framed against him it was for the applicant to substantiate his innocence and that he had paid the amount to the payees either on the dates when he submitted the paid vouchers to the BPM or earlier there to. The applicant has not been able to substantiate this aspect accordingly. The enquiry officer relying upon the improved version of the witnesses and probably thinking since the payees have admitted to have accepted the amounts covered under the postal money orders, recorded the findings favouring the applicant. The enquiry officer appears to have not given much importance to the postal rules, particularly Rule 106 and Note 1 to Rule 127 of the Postal Manual Vol.IV.

23. The disciplinary authority rightly for the reasons recorded therein disagreed with the findings of the enquiry officer and imposed the penalty.



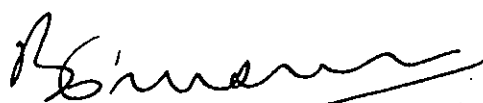
23. The appellate authority has considered the various grounds raised by the applicant in the appeal and has formed an opinion that no interference was called for in the matter of punishment.


24. A court or Tribunal has no power to reappraise or analyse the evidence on record and come to a different conclusion. It is for the authorities to take of the factors into consideration. The enquiry officer had not given importance to the rules and the Postal Manual while recording his findings.

25. Both the disciplinary and appellate authorities have taken into consideration the rule position and also the fact that the applicant had not paid the amount to the payees either on the date of submission of paid vouchers to the BOM or earlier there to.

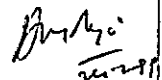
26. We find no reasons to interfere with the impugned orders. Hence the only order that can be passed in this OA is to dismiss the same.

27. Accordingly, the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RAMESHWARAN)
Member (Admn.)

Dated : 23rd February, 1999



Copy to:

1. HDHND
2. HHRP M(A)
3. HDSOP M(J)
4. D.R.(A)
5. SPARE

1st and IIInd Court.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

THE HON'BLE H. RAJENDRA PRASAD :
MEMBER (A)

THE HON'BLE R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESHWAR:
MEMBER (J)

DATED: 23/2/99

ORDER/JUDGMENT

M.A./R.A/C.P.NO.

IN

C.A.NO :

485/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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