

46

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

OA.No.1563/97

Date of order : 11.3.97

BETWEEN:

K.Narayana

... Applicant

AND

1. The Superintendent of Post Offices,
Main Road, Mahaboobnagar,

2. The Director of Postal Services,
O/o the Post Master General,
Hyderabad Region, Dak Sadan,
Abids, Hyderabad.

3. The Post Master General,
Hyderabad Region,
Dak Sadan, Abids,
Hyderabad.

... Respondents

Counsel for the Applicant - Mr.N.Jagan,Advocate

Counsel for the Respondents - Mr.B.Narasimha Sarma,Sr.CGSC

CORAM:

THE HON'BLE MR.R.RANGARAJAN : MEMBER (ADMN.)

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

...

O R D E R
(per Hon'ble Mr.B.S.Jai Parameshwar, M(J))

None for the applicant. The applicant was absent
when the O.A. was taken up for hearing. Heard Mr.Jacob
for Mr.B.Narasimha Sarma the learned senior standing
counsel for the Respondents.

2. We are deciding this OA on the basis of the
material available on record in accordance with Rule
15(1) of the Central Administrative Tribunal(procedure)
Rules,1987.

3. This is an application under Section 19 of the
Administrative Tribunals Act,1987. The Application was
filed on 12.11.97.



...2

4. During the year 1994 the applicant was working as EDBPM of the Bhogaram Branch Office in Kosgi Mandal, Mahaboobnagar District. He was put off duty from the said post contemplating disciplinary action against him.

5. The Respondent No.1 issued a charge memo by his proceedings No.F3-2/94-95, dt.28.12.94 under rule 8 of the P&T EDS (Conditions and Service) Rules,1964(Annexure-I). The misconduct alleged against the applicant reads as Under:-

Shri K.Narayana while working as BPM,Bhogaram a/w Kosti during the months of June '94 and Aug. '94 as effected the following money orders and purported to have been paid correctly to the payees under proper identification.

- i) M.O.No.2875 dated 29.6.94 of Uran (Panvel) for Rs.500/- paid on 12.7.94.
- ii) M.O.No.6624 dated 4.8.94 of Hospet for Rs.1000/- paid on 10.8.94.
- iii) M.O.No.2871 dated 8.8.94 of Borivali West PO for Rs.1000/- paid on 12.8.94.

But payees of aforesaid MOs have denied receipt of amounts on the dates mentioned above from the said Shri K.Narayana, BPM (put off) Bhogaram and witnesses shown as witnessed the payment on the relevant M.O. paid vouchers also denied the payment of the paid MOs in their presence.

Thus it is alleged that the said Shri K.Narayana failed to observe the provisions of rules 10(1) and 106 of book of BO rules, seventh edition (corrected upto 31 March 1986) and thereby failed to maintain absolutely integrity and devotion to duty as required by him under rule 17 P&T ED Agents (C&S) Rules,1964.

6. The applicant denied the charges. A detailed enquiry was conducted in the charge by the Asst.Suptd.of Post Offices (R), Divisional Office, Mahaboob Nagar. The applicant participated in the enquiry. The Inquiry Officer submitted

0

48

.3.

his report dt.6.5.96. He recorded his findings as under:-

" Based on the documentary/oral evidence produced by the prosecution during the course of enquiry I hold that the article of charge levelled against the Govt. servant is stand proved beyond any reasonable doubt. However, payees of these three MOs admitted about receipt of the amount on some other dates other than those noted on the MO forms. "

7. A copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his representation against the findings of the Inquiry Officer.

8. The Respondent No.1 after considering the representation of the applicant, report of the Inquiry Officer and Inquiry report agreed with the findings of the Inquiry Officer. The Respondent No.1 by his proceedings of even Number dt.18.5.96 imposed the penalty of removal of the applicant from service. A copy of the penalty order dt.18.5.96 is at Annexure A-II (page 16 to 20).

9. The applicant submitted an appeal against the penalty order to the Respondent No.2. A copy of the appeal memo is at Annexure A-III (page 21 to 25). The Respondent No.2 after considering the appeal rejected the same and confirmed the punishment by his proceedings No. ST/21-4/4/96, dt.27.11.96. A copy of the order of Respondent No.2 is at Annexure A-IV (page 26 to 29).

10. The applicant submitted a petition against the order dt.27.11.96 to the Respondent No.3. A copy of the petition is at Annexure A-V (page 30 to 33).

11. The applicant has filed this OA for the following reliefs :-

R

(a) Call for the records pertaining to Memo No. F3-2/94-95, dt.18-5-1996 issued by the Respondent No.1 imposing punishment of Removal from service of the Applicant and set aside the same as illegal, arbitrary and against the principles of natural justice.

(b) Consequently, direct the Respondents to take the Applicant back into service with all service benefits attached to the post of Branch Post Master.

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

(a) Shri Chennaiah a witness for the payment of M.O. No.2875, dt.29.6.94 for Rs.500/- was not examined during the inquiry. Instead, the Inquiry Officer relied upon one Sh.Chennaiah of Bakthimalla who was not at all present at the time of payment of amount to the payee and the Inquiry Officer relied upon the statement of witnesses recorded during the preliminary enquiry.

(b) The Inquiry Officer has recorded a finding that the amounts were in fact paid to the payees of the Money Orders, but later. Hence the misconduct alleged in the charge memo is not at all proved.

(c) When the payee was illiterate, literate attestor's version should be believed. However, his version with respect to M.O.No.6624, dt.4.8.94 that the amount was not paid in his presence should have been ignored, and should not have been taken into consideration.

(d) The payee of M.O.No.2871 had admitted to have received the amount and his signature.

(e) The Inquiry Officer and the Respondent authorities placed reliance on the statements recorded during the preliminary enquiry.

(f) The variation is in the date of visit of Investigation Officer during the preliminary investigation dt.23.8.94 and 27.8.94. The evidence of Investigation Officer was not acceptable; and

2

(g) The punishment imposed on him called too harsh, severe and disproportionate for the charge of misconduct.

13. The Respondents have filed reply statement that the inquiry was conducted with all opportunity to the applicant to establish his innocence, that Chennaiah was the witness who was the actual attestor, and that the applicant could have produced real Chennaiah if he had suspicion about the person examined by the Inquiry Officer, that the witness Ramulu was a brother of ^{the applicant} that the Investigating Officer visited the Bhagaram Village on 23.8.94 and statement of witness were recorded on 27.8.94 during the 2nd visit of the Investigating Officer, and that Rules 10(1) and 106 of the Branch Office Rules (7th edition) was not followed and it was for the applicant to prove that he had paid the amount to the payees of the Money Orders on the dates or prior to the submission of paid vouchers to the branch office and the applicant cannot rely on the retracted version of the witnesses who deposed with a view to help the applicant.

14. The witnesses during the course of evidence tried to help the applicant by saying that they accepted the amount or the amount was paid in their presence. The fact remained that the applicant had not paid the amounts to the payees on the date, he submitted the paid vouchers to the branch office or earlier thereto.

15. The misconduct alleged against the applicant is that the applicant had not paid the amounts to the payees of the Money Orders on the dates mentioned in the Money Orders. In fact after delivery of the amounts, the applicant must have obtained the signatures of the payee with date and returned the top-portions of the Money Orders to the Branch Office that these paid vouchers must contain the

N

.6.

signature as well as date of payment. In the instant case, the payments were not made on the dates mentioned on the paid vouchers.

16. The applicant contended that the Inquiry Officer relied on the statement of the witnesses during the preliminary enquiry in fact their statements have been marked during the enquiry.

17. The Disciplinary proceedings are only fact finding body. Strict rules of evidence is not applicable to the disciplinary proceedings. The Inquiry Officer can collect material in support of the charge. The paid vouchers were marked during the enquiry. When that was so, it was for the applicant to substantiate that he had actually paid the amounts to the payees on the dates mentioned on the paid vouchers or earlier thereto. He has not followed the rule 10(1) and 106 of Book of BO Rules (seventh edition) in the matter of payment of amount to the payees of the Money Orders.

18. The Respondent authorities have considered the findings recorded by the Inquiry officer in accordance with the rules, for, it cannot be said that it is a case of no evidence. When once a full fledged inquiry is held then preliminary inquiry will loose its significance.

19. The applicant was given every opportunity to substantiate his innocence. In fact the charge cast burden on him to show that he had paid the amounts to the witnesses on the dates mentioned in the paid vouchers on the dates or earlier thereto.

20. It is in this back ground the Inquiry Officer ~~rightly~~ ^{clearly} recorded the findings that the applicant had

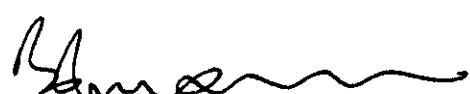


not paid the amounts on the dates mentioned in the paid vouchers pay but had paid the amount later. This clearly is the misconduct levelled against the applicant.

21. The applicant contends that the punishment imposed on him is ~~proportionately~~ disproportionate to the misconduct. This Tribunal has very limited scope in the matter of disciplinary proceedings. It is for the disciplinary authorities to consider the gravity of the charge and impose the appropriate punishment. In the instant case, the applicant has not paid the amount to the payees of the Money Orders on the dates indicated in paid vouchers. This fact has been fully established and the Respondent authorities have taken note of this and the rule position while imposing punishment. We do not find any justifiable reasons to accept any of the contentions of the applicant.

22. There are no grounds to interfere with the impugned orders. Hence the D.A. is liable to be dismissed.

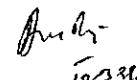
23. Accordingly, the DA is dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
Member (JUDL.)
11-3-99


(R. RANGARAJAN)
Member (Admn.)

Dated: 11 March, 1999

'SA'


wsc

Copy to:

1. NOHNO
2. HHRP M(A)
3. HBSOP M(J)
4. D.R.(A)
5. SPARE

26/3/99
1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

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

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

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

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

DATED: 11.3.99

ORDER/ JUDGEMENT

MA./RA./CP. No.

IN

O.A. No. 1563/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/ REJECTED

NO ORDER AS TO COSTS

SRR

(8 copies)
To be noted

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
शेषण / DESPATCH

17 MAR 1999

हैदराबाद न्यायपीठ
HYDERABAD BENCH