

CENTRAL ADMINISTRATIVE TRIBUNAL,

JAIPUR BENCH, JAIPUR.

REVIEW APPLICATION NO. 01/2005
in
ORIGINAL APPLICATION NO. 51/2004

Date of Order: 18/11/05

D.P.Sharma, Postal Assistant, Jaipur GPO, Jaipur.

... Applicant

VERSUS

1. Union of India through Secretary, Department of Posts, Ministry of Communications, Dak Bhawan, New Delhi.
2. Principal Chief Post Master General, Rajasthan Circle, Jaipur.
3. Director Postal Services, Jaipur Region, Jaipur.
4. Sr.Suptd. of Post Offices, Jaipur City Postal Division, Jaipur.

... Respondents

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (J)

HON'BLE MR.A.K.BHANDARI, MEMBER (A)

O R D E R

PER MR.A.K.BHANDARI

This Review Application has been filed under Rule-17 of the Central Administrative Tribunal (Procedure) Rules, 1987 read with Administrative Tribunals Act, 1985 to seek recall and review of the

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order of this Tribunal dated 13.12.2004, passed in OA 51/2004. In the above OA prayer was made to quash order of reviewing authority dated 17.12.2003 with memos dated 31.3.2003 and 18.7.2001 being punishment and appellate orders respectively. Also that the charge-sheet dated 21.6.2000 be quashed with inquiry proceedings. While placing on record above judgement, averment has now been made that while deciding this OA this Tribunal failed to notice apparent discrimination between the applicant and Shri R.P.Mathur, holding the post of Sub Post Master. That while posted at the same Post Office, for the same facts and reasons punishment of dismissal has been awarded to the applicant, but Shri Mathur has been issued minor punishment charge-sheet, although bare reading of Ann.A/5 being charge-sheet given to Shri Mathur would reveal that the alleged delinquency of both officers was the same. Also that Tribunal failed to notice the fact that Shri Mathur was the sole custodian of the oblong stamp which as per rules remains in the possession of Sub Post Master, a fact admitted by him in the statement annexed as Ann.A/13 at page 79 of the OA, and the impression of this oblong stamp was embossed on the IVPs. Therefore, he cannot be absolved of the responsibility and the respondents cannot be heard to say that he was not or less responsible for the mistake due to which payment against fake IVPs was made at the Post Office. Further that in course of inquiry applicant had demanded all original IVPs and this request of the applicant was accepted by the inquiry officer but the same could not be shown to him. This infirmity has prejudiced his case. It is further stated that during arguments counsel for applicant had drawn attention to earlier decision of this Tribunal in OA 349/2003 (Kishan Pal Singh v. Union of India & Ors.), decided on 12.10.2004, and decision of Apex Court in State of UP v. Rajpal Singh to say that there could not be two different punishments for two officers of the same work place for the same delinquency. But the Tribunal missed the essence of these judgements while deciding the case. On the contrary, the Tribunal in para-13 of its decision observed that irregularities came to the notice of Shri Mathur subsequently from

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the telephonic message from GPO and that the applicant had not brought the matter to the notice on the day of payment. Therefore, applicant was directly and primarily responsible for the mishap, whereas Shri Mathur was punished for his supervisory failure to prevent it. Lastly, the Tribunal did not appreciate the charges leveled against the applicant correctly because charges nowhere allege that applicant made payment without approval of supervisor and when supervisor himself admitted in cross examination that he allowed the payment, he could not be a witness in this departmental action.

2. Powers of this Tribunal in the matter of review of its order are akin to powers of the Civil Court and are governed by Order-47 Rule-1 of the Code of Civil Procedure. This rule provides that review can be done if there is an error apparent on the face of record or if there is such material fact or the point of law which could not be brought to the notice of the Tribunal/Court despite due diligence.

3. While considering the RA it is felt that there is no error apparent on the face of record because all the pleadings in this RA by the applicant are based on the record which is part and parcel of the OA filed by the applicant or the reply submitted by the respondents. After evaluation of these facts this Tribunal passed the final order. Nor has the applicant submitted any new fact or material or point of law which he could not bring to the notice of the Tribunal during pleadings and arguments at appropriate stage. Careful reading of the Review Application reveals that in essence the applicant is seeking reevaluation and reinterpretation of the evidence which is beyond the scope of review as per law quoted above.

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4. In view of above; we find that this Review Application is devoid of merit and the same is dismissed, by circulation.



(A.K.BHANDARI)



(M.L.CHAUHAN)

MEMBER (A)

MEMBER(J)