

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH; JAIPUR.**

19th DAY OF DECEMBER TWO THOUSAND THREE

O.A. No.186/1999

The Hon'ble Mr. J.K. Kaushik, Judicial Member

The Hon'ble Mr. A. K. Bhandari, Administrative Member

Mool Chand
S/o Prabhati Lal
R/o Village Mohisada
P.O Mohi Purani (Singhana)
Distt. Jhunjhunu

Applicant.

Mr. P.N. Jatti: Counsel for the applicant.

Versus

1. Union of India through
the Secretary to the Govt. of India,
Department of Posts
M/o Communications,
New Delhi -110 001
2. Post Master General,
Rajasthan Western Region,
Jodhpur. 342 001
3. Superintendent of Post Offices,
Jhunjhunu Division,
Jhunjhunu 333 001.
4. Sub Divisional Inspector (Postal),
Khetri Sub Division,
Khetri 333 504

.....Respondents.

Mr. N.C. Goyal, counsel for the respondents

ORDER

Per Mr. J.K. Kaushi, Judicial Member:

Shri Mool Chand has assailed the order dated 18.2.98
(A/1) by he has been inflicted the penalty of removal from
service and has inter alia sought for grant of appropriate orders

or directions to reinstate him in service with all consequential benefits.

2. The brief recital of the facts of this case would suffice for resolving the controversy involved in this case. The applicant while holding the post of EDDA Mohi Purani Post Office Distt. Jhunjhunu since 1994, was issued with a charge sheet under Rule 8 of EDA (Conduct) Rules 1964 vide memo dated 5.11.97 primarily alleging misappropriation of two money orders worth Rs. 200/- each. He was put of duty w.e.f. 22.10.94. A detailed inquiry was ordered in the matter and inquiry officer was appointed. The inquiry was scheduled to be held on 5.12.97 but due to non-attendance of the presiding officer it was postponed. The applicant nominated one Shri Gopi Chand as his defence helper but he was not spared by his controlling authority and applicant was compelled to attend the inquiry. He could not cross examine the prosecution witnesses as he did not know anything. He also could not produce his defence witnesses. He simply signed the papers.

3. The further case of the applicant is that the inquiry was concluded hurriedly just in three days and the inquiry report was submitted without considering the defence brief. The disciplinary authority imposed the penalty of removal from service vide letter dated 8.2.98. The penalty has said to be extremely harsh and disproportionate and also well shocking. He could not prefer appeal in time; therefore he filed a revision petition which remained un-decided. The OA has been filed on diverse

grounds narrated in para 5 and its sub-paras but we shall with the grounds stressed by the learned counsel for the applicant as indicated a little later in this order.

4. The respondents have resisted the case and have filed an exhaustive reply to the Original Application. It has been averred that the applicant misappropriated the money. He admitted, vide his application, that he himself would defend his case and also attended all the sittings of the inquiry. He has concealed this fact from the notice of this Tribunal. The disciplinary authority duly considered all the records and passed the penalty order. The penalty imposed is not disproportionate to the alleged misconduct as the same related to misappropriation of funds. The applicant has also not availed the remedy of appeal; hence the Original Application deserves to be dismissed.

5. A rejoinder to reply has been filed on behalf of the applicant and the averments made in the reply have been generally denied.

6. We have heard the learned counsel for both the parties and have bestowed our earnest consideration to the pleadings and the records of this case.

7. The learned counsel for the parties have reiterated their pleadings and taken us to various documents. The learned counsel for the applicant has contended that the applicant was denied the reasonable opportunity to defend his case and the

inquiry itself was completed within three days. His signatures were obtained on the blank papers under duress. On the other hand, the learned counsel for the respondents has submitted that the applicant was provided with full opportunity to defend his case and he himself wanted to defend his case. He has in fact admitted the charges in his written brief that he has signed at the place of paying officer. He also said that he signed in place of the paying officer at the instance of Shri Deshram. The defence brief has been duly considered and the scope of this Tribunal over the disciplinary proceedings is very limited. Thus, no interference by this Tribunal is required in the matter.

8. We have given the matter our thoughtful consideration to the submissions made on behalf of the parties. Before advertiring to the factual aspect of the matter, it would be pertinent narrate the settled legal position that the scope of judicial review in such matters is very limited. This court cannot act as an appellate forum over the findings recorded by the Disciplinary Authority and confirmed by the Appellate Authority. The adequacy or reliability of evidences is not a matter which can be permitted to be canvassed before the Court in these proceedings. It is also settled legal position that strict rules of evidences are not applicable to the departmental inquiries and every violation of procedure does not vitiate the inquiry. See R.S.Saini vs. State of Punjab [1999 SCC (L&S) 1424] K.L. Shinde vs. State of Mysore [AIR 1976 SC 1080]; Rae Bareli Kshetriya Gramin Bank vs. Bhola Nath Singh and others [AIR 1997 SC 1908]; Bank of India and another vs. Degala



Suryanarayana [1999 SCC (L&S) 1036]; **Inspector General of Police vs. Thavasiappan [JT 1996 (6) SC 450].**

9. It is, of course, true that if there was no evidence worth name on record to hold the charges proved, the order can be set aside by this Tribunal. This case, however, is not of that type where the finding of guilt has been recorded without any evidence whatsoever. The applicant has indicated in the revision petition that he signed as paid by him and the thumb impression and also the signatures of the witnesses were already there. The applicant has stated in Annexure A/9, that Shri Desha Ram used to make payment of MOs himself but has been taking his signatures and his fault is only that he obeyed his superiors. This version goes to show that the present one is not the first instant but the applicant has been regularly committing may be at the instance of someone else.

10. We do not find from the records that at any time the applicant has made any complaint in this respect and otherwise also his case can not be diluted with such type of pleas which have no basis. Nothing prevented him from producing defence witnesses in this regard at the time of inquiry. Once the applicant has admitted the guilt, we can safely infer that he can not be said to have been prejudiced due denial of even defence assistant (even though he did not want such defence assistant). Concluding the inquiry within three days also can be said to have caused ~~any~~ ^{not} prejudice to his defence. Thus we are of the firm  opinion that no illegality has been committed by the respondents

in conducting the disciplinary case and passing the order of penalty.

11. As to the quantum of penalty, it cannot be said to be harsh. The applicant not only neglected his duties but also committed misappropriation of the amount by violating the provisions of rule in as much as the payment of MOs were to be paid to the individuals through the postal channel but was not so paid which ~~has~~ resulted in giving rise to complaints from the public. The image of the postal department has been tarnished as well the rightful person was deprived of him money. This court cannot have sympathy towards such a person.

12. For the reasons stated above we find no merit in this Original Application and hereby dismiss the same. No order as to costs.

~~A.K. Bhandari~~
(A.K. Bhandari)
Administrative Member

~~J.K. Kaushik~~
(J.K. Kaushik)
Judicial Member

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