

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 24.01.2001

OA No.35/1999

Nerottam Singh s/o Shri Lal Singh aged 53 years r/o House No.360,
Balanandji Ki Mori, Uniaon Rao ka Rasta, Jaipur

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India,
Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur -7
3. Senior Superintendent, Railway Mail Service, Jaipur-1

.. Respondents

Mr. P.N.Jati, counsel for the applicant

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

CORAM:

Hon'ble Mr. A.K.Mishra, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

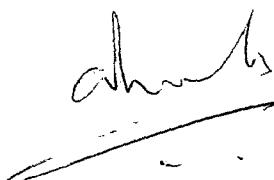
Order

Per Hon'ble Mr. N.P.NAWANI, Administrative Member

The applicant through this OA, prays that the impugned order dated 21.10.1997 (Ann.A4) by which his appeal against the penalty of dies-non imposed on him for his absence from duty on 24.8.1996 was rejected be quashed and further that he may be treated as on duty on that day and consequently the respondents be directed to pay the salary of the applicant for the day 24.8.1996 alongwith interest @ 24% p.a.

2. We have heard the learned counsel for the parties and have perused all the material on record, including the rejoinder filed by the applicant.

3. After considering the rival contentions, we are of the opinion that the controversy we have to address in this OA is



whether the penalty of dies-non imposed on the applicant for his absence on 24.8.1996 (Ann.A2) is required to be interfered with by us or not. The applicant has challenged the said penalty essentially on two grounds. Firstly, no report about the absence of the applicant on duty between 15.40 Hrs. to 18.30 Hrs. on 24.8.1996 was made by his immediate supervisor, Shri B.L.Bangaliya and this supports his contention that he was not absent from duty on 24.8.1996. Further, that he had completed the work. Secondly, that the order of penalty (Ann.A2) is not in terms of provisions of Rule 62 of P&T Manual Vol.III, as mentioned in Ann.A2 and, therefore, the penalty of dies-non inflicted on him is illegal and impugned order dated 21.10.1997 (Ann.A4) rejecting his appeal is liable to be quashed. The respondents, on the other hand, have countered the contentions of the applicant by stating that when the officer-in-charge, the Supdt.(Stg.) had himself found the applicant having absented himself from duty and deserted his work, this by itself is adequate to come to the conclusion that the applicant had absented himself from duty and the report of Supdt. (Stg.) Ann.R1 also supports this. It has also been contended that his immediate supervisor, Shri Bangaliya, had also absented himself from duty between the same period and, therefore, the question of his making or not making a report about the absence of the applicant during this period does not arise. As regards the second ground, it has been emphatically asserted by the respondents that the applicant had committed unauthorised absence and desertion to duty which is in violation of the provisions of Rule 62 of P&T Manual Vol.III and as such the applicant had rightly been marked as dies-non on 24.8.1996. They have also mentioned that an official can be marked dies-non even for part of a day in case he leave the office without permission and not performing his duties.

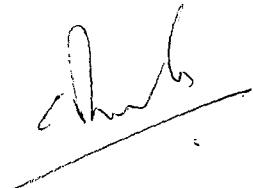
4. We have carefully considered the rival pleadings and the arguments advanced by the learned counsel for the parties. We find no force in the contention of the applicant that since



immediate supervisor Shri Bangaliya had not made any report about his absence from duty, simply because the said immediate supervisor Shri Bangaliya had also absented himself during the very same period and consequently punished with the same penalty of dies-non on 24.8.1996. Further, the officer-in-charge, the Superintendent (Stg.) Jaipur RMS had himself found the applicant absent and made a report, a copy of which has been filed by respondents as Ann.R1. It is also observed from Ann.R1 that Shri G.R.P. Meena, ASRM had also accompanied the said Superintendent (Stg.) when the absence of the applicant and others was noticed. We, therefore, find no substance in the first contention of the applicant that he had not absented himself from duty between 15.40 Hrs. and 18.30 Hrs. on 24.8.1996. As regards the second contention made on behalf of the applicant, we find from the Rule 62 of the P&T Manual Vol.III extracted by the applicant himself in his OA that the Rule 62 clearly provides as under:-

"62. Absence of officials from duty without proper permission or when on duty in office, they have left the office without proper permission or while in the office, they refused to perform the duties assigned to them, is subversive of discipline. In cases of such absence from work, the leave sanctioning authority may order that the days on which work is not performed be treated as dies non, i.e. they will neither count his service nor be construed as break in service. This will be without prejudice to any other action that the competent authorities might take against the persons resorting to such practices. "

A plain reading of Rule 62, as extracted above from the OA itself, clearly reveals that the leave sanctioning authority can

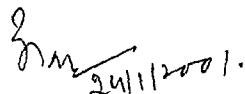
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order that the days on which an employee absents himself without proper permission or when on duty leaves the office without proper permission or refuses to perform the duties assigned to him, treat such day(s) as dies-non. As the rule itself mentions, such act is subversive of discipline. In the circumstances, we find that the applicant has not been able to substantiate that the penalty of one day's dies-non imposed on him vide Ann.A2 was in any way illegal and consequently we do not find any justification for interfering with the impugned order dated 21.10.1997 (Ann.A4).

5. In the result, the OA is found to be devoid of merits and accordingly it is dismissed with no order as to costs.


(N.P.NAWANI)

Adm. Member


(A.K.MISHRA)

Judl. Member