

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 23/3/94

OA 556/99

Ranglal Meena, Sub Postmaster, Gudna Chanderji, Distt. Sawai Madhopur.

... Applicant

Versus

1. Union of India through Secretary, Department of Posts, Ministry of Communications, New Delhi.
2. Member (Personnel), Postal Services Board, Dak Bhawan, New Delhi.
3. Chief Postmaster General, Rajasthan Circle, Jaipur.
4. Director Postal Services, Jaipur Region, Jaipur.
5. Superintendent of Post Offices, Sawai Madhopur Division, Sawai Madhopur.

... Respondents

CORAM:

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

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

For the Applicant

... Mr.P.N.Jatti

For the Respondents

... Mr.N.C.Goyal

ORDER

PER HON'BLE MR.A.K.BHANDARI

This OA filed u/s 19 of the Administrative Tribunals Act, 1985, is to seek quashing of punishment order and rejection of appeal of a Postal Service Officer. The exact relief clause reads as under :

"That the impugned order Ann.A/1 and Ann.A/17 be quashed being illegal, unconstitutional and capricious and violative of the CCS (CCA) Rules, 1965 and Article 311(2) of the Constitution of India."

2. Brief facts of the case are that the applicant, Assistant Post Master, posted at Head Post Office, Sawai Madhopur, was served with a charge-sheet dated 19.5.92 for imposing major punishment under Rule-14 of the CCS (CCA) Rules, 1965. The charges pertain to 'affording credit of uncleared cheques in SB Accounts in violation of departmental instructions'. Regular inquiry was held and punishment of reduction of pay by two steps for one year was imposed vide Ann.A/1 dated 30.6.95. The applicant was aggrieved by the facts that he was not provided the defence



assistant of his choice, additional documents demanded by him were not supplied in course of inquiry and that punishment is harsh considering the fact that his mistake, if any, did not cause financial loss to Government and that same would cause acute financial loss to the applicant upto the pensionary benefits stage. It is also alleged that respondents while dealing with the case did not consider the aspect of 33 years of unblemished service and that the applicant belongs to ST community etc. etc. During inquiry he had submitted representations regarding his grievance as stated above as also for the fact that inquiry officer was biased against him, due to which he could not put up proper defence, but these were not paid required attention. The applicant went in appeal dated 14.8.95 (Ann.A/11) but no reply was received. Therefore, reminder was sent on 31.5.96 (Ann.A/12). Even then no reply was received. He then submitted a further reminder to Chief Post Master General, Rajasthan, Jaipur, through proper channel namely Superintendent of Post Offices, Sawai Madhopur, and copy direct to him dated 17.10.96 (Ann.A/14) and 15.7.97 (Ann.A/15). Aggrieved by this abnormal delay in decision of appeal, applicant submitted review petition to Member (Personnel), Postal Service Board, dated 24.4.98 (Ann.A/16) but no reply was received. In the end, Chief Post Master General, Rajasthan, took a decision on his appeal on 10/11.5.99 (Ann.A/17) upholding the punishment awarded by the disciplinary authority. Aggrieved by these orders, the present OA was filed.

3. In the grounds illegality and arbitrariness are alleged in not correctly deciding his representations regarding defence assistant and requirement of additional documents by quoting GI Instructions under CCS (CCA) Rules. He was also not given opportunity to produce defence witnesses. Vindictiveness is alleged by saying that preconcieved punishment was awarded even though no financial loss to the Government was caused and no fraud and forgery were committed by the applicant. That the respondents also did not take into account 33 years of service and 52 years of age as also his ST status while imposing heavy penalty disproportionate

✓
2

to the petty charges.

4. The respondents have given an elaborate reply giving details of facts on the basis of which three charges were framed against the applicant after thorough preliminary inquiry during which irregularities committed by the applicant surfaced with sufficient documentary proof. To substantiate this photo-copies of relevant documents are annexed at Ann.R/1 to R/7. From these inquiry it was cleared that applicant had violated departmental rules and procedures and but for the vigilance and timely corrective action by Post Master, Government would have sustained heavy financial loss besides credibility. The inquiry officer submitted his report on 15.8.94, copy of which was sent to the applicant, to which applicant replied vide representation dated 18.3.95. After duly considering the reply as also inquiry report, the disciplinary authority imposed punishment on 30.6.95. The applicant preferred appeal dated 14.8.95, which was received by respondent No.5 on 31.5.96 and was forwarded to respondent No.3 on 17.6.96 alongwith comments. Respondent No.3 after taking into consideration the arguments raised in the appeal as well as material available before him decided the same vide memo dated 10/11.5.99 by upholding the penalty imposed by the disciplinary authority. No review petition was received in the office of respondent No.5, as alleged to have been filed by the applicant vide Ann.A/16. It is also stated that the applicant had filed an OA 121/99 which was later on withdrawn by him on 30.8.99 with liberty to file afresh. Looking to the gravity of the charges penalty imposed by the disciplinary authority and sustained by the appellate authority are perfectly legal and justified. That without availing the opportunity of review, filing of this OA is misconcieved and is therefore liable to be dismissed.

5. In parawise reply it is denied that applicant was not provided full opportunity by inquiry officer for appointment of defence assistant of his choice. That according to CCS (CCA) Rules, inquiry officer has exercised

✓

discretion in not permitting defence assistant from any other station than the place of posting and inquiry. Since applicant nominated Shri Rajendra Sharma, posted in Kota, and subsequently Shri P.L.Gupta, who also resides at Kota, the requests were turned down. It is further made clear that Sawai Madhopur is District Headquarter where there are a number of employees of Postal & Telecom Department and applicant could have easily opted anyone amongst them. In proof of having given the mandatory opportunity, copy of deliberations of inquiry held on 16.11.92 are enclosed as Ann.R/8, which makes this point abundant clear. The applicant submitted a representation on 16.11.92 to answering respondent No.5 alleging bias of inquiry officer against him. Such representation was duly considered and replied vide letter dated 19.11.92 (Ann.R/9). In this document it is made clear that just because inquiry officer has declined to accept defence assistant from among people posted or living in Kota, allegation of bias against him cannot be sustained. It is also made clear that he may choose defence assistant from persons posted in Sawai Madhopur. Another representation dated 26.11.92 to respondent No.5 was replied on 4.1.93 vide Ann.A/5, further clarifying the position regarding defence assistant. The allegation regarding non-supply of relevant documents is also denied and it is stated that out of 7 additional documents 4 were made available on 16.3.93 but remaining 3 were not in the custody of disciplinary authority and, therefore, could not be supplied. That the applicant participated in all proceedings of inquiry including cross examination of witnesses, hence he has availed full opportunity to defend his case. It is further stated that applicant has at no point during inquiry or in the OA stated now the action of respondents has prejudiced his defence. Regarding quantum of penalty, it is stated that the same is not heavy. In fact, the Chief Post Master General (appellate authority) has correctly observed that such fraudulent activity deserves much higher penalty than the one imposed by the disciplinary authority by a speaking order. Regarding delay in deciding appeal, it is clarified that the applicant sent his appeal directly to Chief Post Master General without endorsing copy to respondent

Yd

No.5 and avoidable correspondence entailed. Regarding review, it is stated that no review petition to Member (Personnel), Postal Service Board, dated 24.4.93 was preferred by the applicant through office of answering respondent No.5. Answering to the grounds, same contentions as preferred in parawise reply have been repeated to reiterate that insistence of disciplinary authority on seeking appointment of defence assistant from officers posted at Sawai Madhopur was correct, available additional documents were supplied and the ones declined were not available with the disciplinary authority. The allegation of bias against inquiry officer during the process of inquiry were objectively assessed by disciplinary authority and appellate authority who felt that the decision of the inquiry officer was as per rules. It is also clarified that no prejudice has been caused to the applicant by all these decisions. Therefore, ground of illegality and arbitrariness are wrong. In fact, the lapses committed by the applicant at an advance age of 52 years and after serving in the department for 33 years deserve to be dealt with more severely as they pertain to doubtful integrity. It is also clarified that no fault can be found with the procedure followed by the inquiry officer and analysis of the same in light of the representation of the charged officer by the disciplinary authority. The appellate authority has also considered the grounds taken by the applicant in his appeal and dealt with them in a speaking order and found the charges proved, therefore, decided to uphold the punishment. While denying the receipt of review petition, it is reiterated that applicant has not exhausted departmental remedy before filing this OA due to which reason also it deserves to be dismissed.

6. The case was heard at length during arguments. Learned counsel for the respondents raised preliminary objection over the fact that in the application very little allegations have been made to substantiate the prayer of quashing punishment and appellate order and that the application is more in the nature of appeal, whereas the powers of the Tribunal in this regard are nil. Learned counsel for the applicant denied this and said

KJ

that applicant's defence is based primarily on three objections due to which he could not defend himself properly and an unwarranted punishment has been imposed upon him. He then repeated the pleadings on record and requested the Tribunal to set aside the impugned orders because of prejudice resulting from wrong decisions of respondents with regards to defence assistant, non-supply of documents and not changing the inquiry officer.

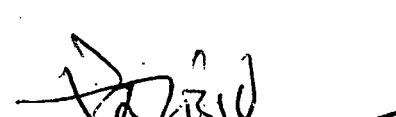
7. Learned counsel for the respondents defended their case fully justifying their action on the touchstone of rules which give discretion to disciplinary authority to decide the matters raised by applicant in his representation and that correct decision was taken in disallowing defence assistant from Kota and when large number of officers of the department were available at Sawai Madhopur being District Headquarter, Shri Rajendra Sharma who had given the consent to be defence assistant was an office bearer of the employees union and, therefore, very busy in his duties attending to the welfare needs of the employees at Kota. His appointment would have only delayed the proceedings. Regarding non-supply of documents, it was stated that the same were supplied as per list attached with the charge-sheet and four of the seven additional documents which were available were also supplied vide Ann.R/3 but the documents which were not even in the domain of disciplinary authority could naturally not be made available. The applicant could not satisfactorily explain the relevance of these documents. It was also argued that the applicant has not been able to prove through pleadings and arguments as to how both these decisions have in any way prejudiced the case of the applicant. The allegation of bias against inquiry officer raised in his representation is also contextual to refusal to appoint a certain person as defence assistant. Since decision of inquiry officer in this regard was as per rules, the allegation of bias was found unfounded. The averment regarding harsh punishment was also stoutly denied and it was repeated that the gravity of charges justify very severe punishment. In these circumstances, OA deserves to be

5

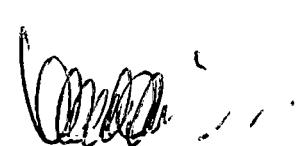
dismissed.

8. We have given careful consideration to the pleadings and arguments. Undoubtedly, the inquiry has been done as per extent rules. The applicant was given opportunity to defend himself and facilities as per rules have been given. All his representations have been carefully considered and disposed of by speaking and reasoned orders to ensure that natural justice is not denied. His objections regarding defence assistant and bias of inquiry officer, and demand for additional documents have been correctly disposed of. The disciplinary inquiry proceedings have been correctly recorded, documents and verbal statements which form basis of allegations or charges have been analysed in depth and charged officer has been given fullest opportunity to cross examine witnesses. His representation was carefully considered while examining inquiry report by disciplinary authority, and it was ensured that nothing in the proceeding may prejudice the defence of the applicant. Appellate Authority has also discharged his responsibility objectively, after taking into consideration all the objections raised in the appeal. Thus, the disciplinary inquiry has indeed been conducted as per rules. In the OA, various issues raised by applicant have been satisfactorily answered by the respondents. Looking at the seriousness of the charges which pertain to financial matters and savings account of the subscribers, any mistake of act or omission connected with them has to be taken seriously. It is also seen that but for vigilence of senior officer and timely corrective action, government would have lost money and face in the matter of trust that clients of the department depose in it. In light of these facts, the punishment awarded by the disciplinary authority, and upheld by the appellate authority cannot be considered excessive or harsh. Therefore, the action of the respondents is justified on all counts.

9. In view of this, the relief sought through this OA cannot be granted. Therefore, the OA is disposed of as dismissed with no order as to costs.


(A.K.BHANDARI)

MEMBER (A)


(M.L.CHAUHAN)

MEMBER (J)