

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 268/2000

DATE OF ORDER: 17.2.2004

Nand Lal son of Shri Nanuram aged about 42 years, resident of Village and post Office Patan via Hamada District Ajmer and working as E.L. Extra Departmental Branch Postmaster (in Short EDBPM) Patan District Ajmer.

.... Applicant

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Posts, Ministry of Communication, New Delhi.
2. Director Postal Services, Rajasthan Southern Region, Ajmer.
3. Senior Superintendent of Post Offices, Ajmer Division, Ajmer.

.... Respondents.

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

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

CORAM:

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER

PER HON'BLE MR. J.K. KAUSHIK

Shri Nand Lal has filed this OA u/s 19 of the Administrative Tribunal's Act, assailing the orders at Annexure A/1 and A/2 amongst other reliefs. The factual matrix of the case necessary for adjudicating for the controversy involved are at very narrow compass. The applicant was appointed as EDBPM, Kanchanpura on 8.1.1980. He was issued <sup>with</sup> a charge-sheet under Rule 3 of E.D. Agents (Service & Conduct) Rules, 1964 vide

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Memo dated 17.11.1998 alleging that he has put his thumb on the two Money orders and taken the payment of the same himself by writing fictitious ~~name~~ of witness and thereby he has violated the Rule 17 of P&T EDAs (Conduct & Service) Rules, 1964. A detailed inquiry was conducted into the allegation and the charge held to be proved. The name of the witness indicated in the Money order is Vikram but the statement of one Shri Mishram was taken during the inquiry. The statement of Shri Manoj Kumar is said to be recorded during the preliminary inquiry but the same has not been produced during the inquiry. The statement of Shri Manoj Kumar is self contradictory. The Inquiry Officer did not give any opportunity to the applicant to cross examine all the witness etc. A detailed representation was made against the findings of the Inquiry Officer. The applicant has been inflicted the penalty of dismissal from service vide order dated 23.8.1999 (Annexure A/1). He had preferred an appeal against the same but the same has been rejected vide order dated 20.12.1999 (Annexure A/2). The impugned orders have been assailed on diverse grounds which we refrain from narrating in detail in view of the order we propose to pass in ~~this case~~.

2. The respondents have contested the case and have resisted the claim of the applicant. The detailed reply has been filed to the OA and all the grounds raised in the OA have been countered. It has been averred that the applicant was given an opportunity and the questions were asked from him as per Rule 14(13) of CCS(CCA) Rules, 1965 as indicated in Para No. 4.8 and his statement was taken up at Annexure A/4 where he has accepted all the charges and on the basis of his admission, the applicant has been imposed penalty of dismissal from service. Thus this OA is misconceived and there is no fault of the respondents.

*[Signature]*

3. We have heard the learned counsel for the parties at a great length and have anxiously considered the pleadings and records of the case.

4. The learned counsel for the applicant has strived hard and endeavoured to submit that it is a case of no evidence as the respondents have not at all brought <sup>out</sup> any evidence against him in as much as the charge against him was that he has put thumb impression and fabricated the receipt by signing himself but there is no evidence in this respect and once the inquiry has been conducted, it was incumbent to the Inquiry Officer to produce evidence in support of the stand of the respondents but nothing has been done. The report of the Inquiry Officer is faulty. Therefore, the penalty order at Annexure A/1 as upheld by the Appellate order cannot be sustained in the eye of law and the OA deserves to be allowed.

5. On the contrary, the learned counsel for the respondents reiterated the defence as stated in the reply and has submitted that the applicant in unequivocal terms accepted the guilt and his statement has been filed at Annexure P/4. The facts relating to the same clearly brought out in the reply but no rejoinder has been filed. Thus the applicant should thank to himself and there is no illegality in the action of the respondents.

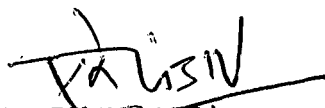
6. We have considered the rival contention of both the parties. The admitted position of the case is that the applicant has admitted the charges and it is not the case of the applicant that the Annexure P/4 was obtained under duress or under extreneous pressure. Once the applicant has himself admitted all the charges and the respondents have made clean breast of their stand and have taken <sup>specific</sup> stand in this regard and there being no rejoinder

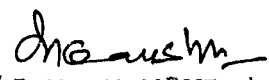
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to the same, the same stand accepted. The inescapable conclusion would be that no fault be fasten to the respondents. Therefore, no interference is called for in the instant case.

7. The learned counsel for the applicant has also made efforts to bring this case within four corner of sympathy in the instant case. It is submitted that the punishment awarded to the applicant is disproportionate to the alleged misconduct and in support of his contention, he has cited the case of Dr Parkash vs. Union of India & Others reported in Synys News May, 1998. In that case, the payment of the Money order was delayed and after a short delay, the payment of the Money order was made. The mental condition of the applicant and his incapability to render the accounts properly was noticed and the punishment of removal from service was modified to reduction in the grade of post to which he was holding. In the instant case, it is a case where forgery has been committed in as much as the signature has been fabricated. It is also a case where money has been kept unauthorisedly and the money was paid only on the day when written complaint was made. In the instant case, the money has been taken and used for personal purposes and paid after 15 to 30 days and that too after a specific complaint of the person in whose name, money order was ordered. Thus, the judgement, which has been cited by the learned counsel for the applicant does not support the case of the applicant and is distinguishable on facts.

8. The upshoot of the aforesaid discussion is that the OA has absolutely no force and substance and the same stands rejected accordingly. However, there shall be no order as to costs.

  
(A.K. BHANDARI)  
MEMBER (A)

  
(J.K. KAUSHIK)  
MEMBER (J)