

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

DATE OF ORDER: 04.06.2004

ORIGINAL APPLICATION NO.84/2001

Surendra Singh son of Madanlal Balai aged about 33 years, resident of village and Post Office Pabana via Mukundgarh, District Jhunjhunu and working as Ex. Extra Departmental Branch Postmaster (In short EDBPM) Paliana District Jhunjhunu.

....Applicant

VERSUS

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communications, New Delhi.
2. Postmaster General, Rajasthan Western Region, Jodhpur.
3. Director Postal Services, Rajasthan Western Region, Jodhpur.
4. Superintendent of Post Offices, Jhunjhunu Division, Jhunjhunu.

....Respondents.

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

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

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

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

ORDER

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

The applicant has filed this OA u/s 19 of the CAT Act, 1985, thereby praying for the following reliefs:-

(i) That the impugned order Annexures A-1 dated 5.11.99 and A-2 dated 21.6.2000 be quashed being illegal, unconstitutional and capricious and violative of articles 311(2) and 21 of the Constitution of India and principles of natural justice.

(ii) That the respondents be directed by issuance of an appropriate order or direction to reinstate the humble applicant in service with all consequential benefits.

(iii) Any other relief which this Hon'ble Tribunal thinks just and proper in favour of the humble applicant including costs."

2. The brief facts of the case as per application are that the

applicant was appointed as Extra Departmental Branch Postmaster Pabana (Dundlod R.S.) on 12.7.1991 and he was removed from service on 8.11.1999 vide order dated 5.11.1999 of Superintendent of Post offices, Jhunjhunu Division although he was working honestly, sincerely and devotedly during all these years. That a charge sheet under Rule 8 of the P&T ED Agents (Service & Conduct) Rules 1964 was issued to him vide order dated 1.12.1998 (Annexure A/4) in which two charges were levelled against him, namely (i) opening of a forged RD account and making deposits of Rs.1000/- and 2000/- therein (ii) not making the payment of two money orders on the dates on which amount was taken into account of post office. An oral inquiry was conducted and as per inquiry report, both the charges were found proved vide report dated 20.8.1999 (Annexure A/5), which was forwarded to the applicant vide letter dated 24.8.1999 (Annexure A/6). The applicant submitted a representation dated 5.4.1999 (Annexure A/7) alleging bais of Inquiry Officer against him but the same was rejected by the Director Postal services, Rajasthan Western Region, Jodhpur by letter dated 12.5.1999 (Annexure A/8). It is further stated that for the above inquiry, the applicant nominated one Shri Saya Ram, Sub Postmaster, Doomra (Jhunjhunu) as Defence Assistant with his consent but the Superintendent of Post Office, Jhunjhunu denied this facility. The Superintendent of Post Office inflicted punishment of removal from service vide order dated 5.11.1999 (Annexure A/1). The applicant's appeal dated 3.1.2000 (Annexure A/11) against the punishment order was rejected by the Director Postal Services, Rajasthan Western Region, Jodhpur vide order dated 21.6.2000 (Annexure A/2).

In the grounds, it is stated that charges are false and baseless but the same have been proved by the Inquiry Officer and agreed by the Disciplinary Authority on the basis of surmises and conjectures. It is elaborated that RD Account No. 9443 was opened by Shri Suresh Chandra who also deposited amount of Rs.1000/- and Rs.2000/- in it. Had it not been so, how he can close this account and receive the entire payment. No proof whatsoever has been given about existence of another RD account bearing No. in the name of same Shri Suresh Chandra 63630 and if there was such an account, the authorities should have given the details of such account. As regards the non payment of amount of two money orders on the same day to the payees when the payment was charged in the post office account, it is stated that no proof has been given of the same. The payees have acknowledged the payment of the money orders. Since they are illiterate and cannot remember the dates or month when they have received the payment but have testified to the effect receiving the amount. The same was admitted by the witnesses of payment also during the inquiry. It is also alleged that Disciplinary Authority had listed 21 documents in Annexure III of the charge sheet but only 12 of these were supplied. That the applicant was also

denied the defence assistant of his choice and was compelled to nominate another officer who later on proved to be ignorant of rules and could hardly assist the applicant. That the Disciplinary Authority while forwarding the inquiry report did not mention whether he agrees/disagrees with the same was forwarded in a mechanical manner. That decision by Disciplinary Authority is based on imaginations, conjectures and surmises and not on facts and the same has been ensorsed by the Appellate Authority without application of mind. That in the course of inquiry, the applicant had requested the Disciplinary Authority to change of the Inquiry Officer, which was rejected by Director Postal Service without giving any reason which has prejudiced his case. That no fraud or misappropriation of Govt. money was involved but the penalty of removal was imposed which is extremely harsh and is violative of Article 21 of the Constitution. It is further stated that charges were framed against the applicant due to quarrel and rivalries amongst the villages and that the applicant has lodged a criminal complaint dated 25.2.1994 vide FIR No. 47 dated 13.3.1994 under Section 341, 323, 379 IPC against one group, which is still pending. That the incident of beating the applicant occurred while he was on duty in his beat on 8.3.1994. Therefore, the accused of above FIR instigated the depositor of RD Account No. 9443 and payees of two money orders to give statements against him. That a loss of Rs.71/- in his incident was charged under 'Unclassified Payments' by the Superintendent of Post Offices, Jhunjhunu vide Memo dated 17/18.3.1994 (Annexures A/12 and A/13) which proves that the Department acknowledged the incident as undue interference in his duty. Therefore, this OA.

4. The respondents have filed detailed reply denying the facts mentioned in the OA. It is stated that on receipt of a complaint from Shri Fresh Chandra, a depositor of RD Account of Pabana BO, the case was investigated by the SDI(P) Nawalgarh. On investigation, allegations against the applicant were found true, for which he was served memo of charges under Rule 8 of EDA (Service & Conduct) Rules, 1964. That prescribed procedure was followed and when the charges were found proved after giving opportunity to the applicant, punishment of removal from service was imposed. The applicant preferred an appeal which was considered and rejected. That in view of the gravity of the charges, which were proved against the applicant, order of punishment of removal from service was correctly issued and, therefore, filing of this OA is wholly misconceived.

5. In parawise reply, same facts have been elaborated and it is denied that applicant was working honesly, sincerely and devotedly because many complaints were received against him, two of which were dated 27.4.1994 and 14.12.1995 are annexed as Annexure R/1 and Annexure R/2 respectively. Yet another complaint (Annexure R-3) was enquired into by SDI ,

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Navalgarn, and it was found that the applicant was guilty of opening fake RD Account in the name of Suresh Chandra. Through inquiries he was also found guilty of temporary embazement of money orders amount of Akola City MO No. 2418 dated 11.2.1998 for Rs.1000/- and Solsumba MO NO, 3812 dated 21.2.1998 for Rs. 2000/- for which he was charge-sheeted and has been punished. The allegation of not giving full opportunity during oral inquiry is denied and stated that charges were fully proved on the basis of oral and documentary evidence. The Inquiry report was supplied to the applicant to submit representation. It is denied that Inquiry report was sent to the applicant in a mechanical way and without any consideration by the Disciplinary Authority. That applicant's complaint of bias against the Inquiry officer was looked into but the applicant had not mentioned any reason in support of his allegation due to which the Appellate Authority rightly rejected the same through a speaking order. Regarding the Defence Assistant, it is stated that request was made for Daya Ram but the same could not be permitted because Shri Daya Ram was working in a single handed post office and relieving him frequently during the departmental inquiry was not possible and due to this administrative reason, the applicant was, directed to nominate some other person as Defence Assistant. Such refusal on reasonable ground does not mean denial of right of representation under CCS(CCA) Rules, 1965 and delinquent official was asked to nominate another Govt. servant. That applicant nominate Mr. B.L. Sharma, who is a senior person, he was appointed as Defence Assistan and Shri B.L. Sharma defended the case of the applicant during the inquiry and, therefore, the plea of the applicant regarding denial of Defence Assistant of his choice is totally incorrect and unfounded. That due to the fact that both the charges were proved, penalty of removal from service was rightly imposed and the same is fully justified.

6. It is stated that charge No. 1 was confined to opening of a fake RD Account No. 9443 in the name of Shri Suresh Chandra and depositing of Rs.1000/- and 2000/- in it on 30.11.1995 and 26.4.1996 respectively. This was amply proved by the statement by Shri Suresh Chandra (in whose name fake account was opened). He has denied having opened this account during the course of oral inquiry. He has also denied the signature on SB-3 form and on specimen signature slip on SB-3 card. This was also proved on the basis of statement of Shri Mavaveer Singh, a witness who denied his signature on SB card as identifier. No mention of RD Account No. 63630 which is in Suresh Chandra's name was made because the same did not concern the charge under However, Suresh Chandra has mentioned in his statement that he has RD Account No. 63630 which has matured. For charge No. 2, it is stated it does not relate to non payment but it is delayed payment of money orders in violation of rules. Witness Shri Sultana Ram payee of Solsumba (Balsad) MO

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No. 3812/- dated 21.2.1998 for Rs.2000/- and Shri Chhoturam Rangera payee of Money order 2418 for Rs.1000/- have stated that the payment were not made on the dates mentioned by the applicant but were paid to them on later dates. Thus this charge was also proved and the plea that recipients are illiterate is irrelevant. Regarding non-supply of certain documents, it is stated that documents listed in Annexure III of the charge sheet were inspected by the applicant on 16.3.1999 in the presence of Presiding Officer and extracts of the same were also taken by him. That photocopies of statement of witness were supplied to him, due to which it cannot be alleged that access to documents listed in Annexure III of the charge sheet was denied. Procedure regarding supplying of a copy of inquiry report and calling representation of the delinquent officer thereupon was followed and the Disciplinary Authority had arrived at his conclusion after careful consideration of all facts and the entire record. Therefore, allegation that the decision of the Disciplinary Authority is based on imaginations, conjectures and surmises is denied. The allegation of disproportional punishment is also denied by stating that charges were grave in nature regarding manipulation of record and temporary misappropriation of Govt. money. The Criminal case referred to has no relevance to the charges framed against him, which was proved by documentary evidence.

7. The applicant has filed detailed rejoinder denying the facts stated in the reply. The respondents on the other filed reply to the rejoinder denying facts of the rejoinder.

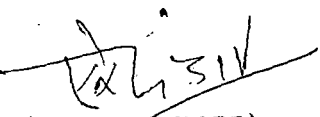
8. Parties were heard at length. The learned counsel for the applicant read through the charge-sheet and tried to say that charge no. 1 regarding opening of fake account is not even made out because the respondents permitted withdrawal of money from this account even though they consider it a fake account. Besides it is not understood why the applicant would deposit money in this account. This contention was, however, successfully refuted by the respondents by stating that the holder of genuine account, Mr. Suresh Chandra, an army personnel, had sent a withdrawal slip to his relative duly signed by him so that his relative could withdraw money from his account No. 63630. That applicant mischievously wrote fake Account No. 9449 on the withdrawal slip and gave the relative only part of the money they wanted to withdraw and that too from the fake account. The applicant assured them that remaining amount of money will be paid to them subsequently. That complaints in this regard was made by Shri Suresh Chandra (Annexure R-3), on the basis of which preliminary inquiry was conducted and due to the fact that the complaint was found to be correct, the charge was framed. The same was clearly proved in the inquiry, portion of the inquiry report which were read out by the

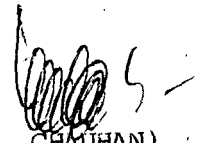
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learned counsel for the respondents. Regarding proving of charge No. 2, it is stated that there is sufficient documentary evidence and statements of the recipient as well as witnesses substantiate the same. It was also stated that the allegation of non supply of documents and not providing defence assistant of choice were disproved by the pleadings and it was averred that there is little doubt that the departmental action has been concluded as per rules. The punishment of removal from service by no account is harsh in the circumstances of the case and the punishment as well as appellate orders are detailed well reasoned and, therefore, the OA deserves to be dismissed.

9. After careful consideration of all facts, it is found that the respondents examined the complaints of the villagers during preliminary inquiry and collected basic facts before issuing the charge sheet. Allegations levelled in the charge sheet (Annexure A/1) have been elaborated in Annexure II of the charge sheet and they are not by any account vague. The Inquiry Officer found them proved on the basis of evidence both verbal and documentary. Annexure III of the Charge sheet is list of documents relied upon and witnesses to be examined, who were cross-examined by the delinquent officer/Defence Assistant. The Inquiry Officer analysed all evidence in detail and the the Disciplinary Authority's punishment order is detailed and self speaking. The same has been sustained by the Appellate Authority by a detailed order. As such, there is no irregularity in the procedure. The representation of the applicant regarding of Inquiry Officer against him, the same has been disposed of as being meritless because no specific reasons for the allegation were mentioned in it. In these circumstances and facts, we find no irregularity in the conduct of the inquiry. Normally we are not required to go into the merits of the charges, which are within the purview of the Disciplinary Authority and Appellate Authority. But, since in the OA, some specific allegation regarding misreading or not correctly analysing the evidence while issuing the punishment order have been made, the same were seen by us. But we find that on merits also the charges are fully proved. The matter pertains to manipulation of record and taking advantage of ignorance of the poor, ill-informed clients and the same should not be tolerated. Therefore, the punishment of removal from service is fully justified.

10. In view of the above, the OA is dismissed with no order as to costs.

  
(A.K. BHANDARI)  
MEMBER (A)

  
(M.L. CHAUHAN)  
MEMBER (J)