

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER: 9/5/2012

OA No. 595/2001

Madan Lal Rawal son of Shri Bajrang Lal aged about 49 years, resident of 35, Mahaveer Colony, Toll Tax Tonk Road, Jaipur. Presently working as Postman Jaipur GPO, Jaipur.

....Applicant.

VERSUS

1. Union of India through Secretary to the govt. of India, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Sr. Postmaster, Jaipur GPO, Jaipur.
4. Superintendent of Post Offices, Tonk Postal Division, Tonk.

....Respondents.

Mr. C.B. Sharma; counsel for the applicant.

Mr. B.N. Sandu, Counsel for the respondents.

CORAM

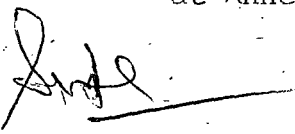
Hon'ble Mr. S.K. Agarwal, Member (Judicial)

Hon'ble Mr. H.O. Gupta, Member (Administrative)

ORDER

PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL)

In this OA filed u/s 19 of the Administrative Tribunal's Act, applicant makes a prayer to quash and set aside the impugned charge sheet at Annexure A/1 and orders regarding appointment of Inquiry Officer at Annexure A/4 and order regarding regarding appointment of Presenting Officer at Annexure A/5.



2. In brief, the facts of the case, as stated by the applicant, are that applicant availed LTC from 13.9.97 to 18.9.97 for himself and his son from Tonk to Karauli and vice versa. The applicant submitted a claim of Rs. 274/- and after inquiry, it was found that claim for the son of the applicant is bogus. It is stated that respondent No. 4 closed the matter after giving a recorded warning and forfeiting the claim of ~~the applicant~~ the applicant for the block year 1994-1997 vide letter dated 7.2.98 but suddenly without disclosing any reasons, a Memorandum of charge sheet dated 22.11.2001 was issued to the applicant by respondent No. 3. The applicant gave reply to this charge sheet vide letter dated 12.12.2001 stating that the matter has already been decided by Respondent No. 4. Therefore, charge sheet be cancelled. It is stated that without considering the request of the applicant, respondent No. 3 is adamant to conduct the inquiry and for this purpose, Inquiry officer and Presenting officer have been appointed vide orders at Annexure A/4 and Annexure A/5. It is stated that action of respondent No. 3 is against the provisions of law as the matter has already been decided. Therefore, applicant has filed this OA for the relief, as above.

3. Reply was filed. It is stated in the reply that disciplinary proceedings have been rightly initiated against the applicant who claimed false LTC of his son, Shri Bhawani Shanker, from Tonk to Karauli and vice-versa, which was found bogus on inquiry. It is stated that act of applicant submitting bogus LTC claim was considered seriously in nature. Therefore, it was decided to initiate departmental proceedings against the applicant as per executive instructions. It is also stated that by letter dated 7.2.98, a recorded warning was given to the applicant but merely a recorded warning given to the applicant does not preclude the respondent department from prosecuting departmental proceedings against the applicant for serious misconduct involving moral turpitude. Therefore, applicant has no case.

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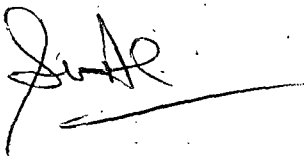
4. Heard the learned counsel for the parties and also perused the whole record.

5. It is an admitted fact that applicant submitted LTC claim of Rs. 274/- for performing journey for himself and his son from Tonk to Karuali between 13.9.97 to 18.9.97 and on inquiry, claim of his son, Shri Bhawani Shanker, was found bogus. It is also undisputed fact that after receiving explanation in the matter, respondent department after full application of mind took the lenient view and issued recorded warning to the applicant not to commit such act in future. Not only this, applicant's LTC claim for the block year 1994-1997 was forfeited and he was not paid anything against his claim of Rs. 274/-. It is also undisputed fact that applicant also made representation after Memorandum of charge sheet dated 22.11.2001 was issued to him but the representation was not replied.

6. In Zohmingliana vs. State of Mizoram (Gauhati High Court) 2000(2) ATJ 684, after completion of departmental inquiry on the charge of lack of integrity and devotion, a fine was imposed which was to be recovered from the salary in instalments and after making recovery, Government passed the impugned order of termination from service. It was held that order of termination was double jeopardy and hence quashed.


7. In a recent order passed by Allahabad Bench of CAT in OA No. 284/94 decided on 23.8.2001, it was held that when the employee has already been warned for not performing the mobile service and thereafter the applicant was removed from the service. It was held that action of respondents smacks of malafide and impugned order being not justified and was quashed.

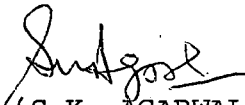
8. In the instant case, the respondent department after full application of mind took a lenient view and issued



recorded warning to the applicant not to commit such act in future and not only this, applicant's LTC claim for the block year 1994-1997 was forfeited and he was not paid anything against the claim of Rs. 274/-. Therefore, initiating departmental proceedings under Rule 14 of CCS(CCA) Rules, 1965 amount to double jeopardy and this action of the respondents is not only illegal but improper and unjustified and therefore, liable to be quashed.

9. We, therefore, allow this OA and quashed the impugned charge sheet dated 22.11.2001 and order regarding appointment of Inquiry Officer dated 14.12.2001 (Annexure A/4) and order regarding appointment of Presenting Officer dated 14.12.2001 (Annexure A/5). No order as to costs.

  
(H.O. GUPTA)  
MEMBER (A)

  
(S.K. AGARWAL)  
MEMBER (J)

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