

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

DATE OF ORDER : 28.4.2004

OA 380/2003

Prahlad Singh son of Shri Kallu Ram aged about 59 years, by caste Tailor, Resident of Quarter No. 139/C, Railway Colony, Bandikui, presently working as S.A. in the office of the Railway Mail Service JP. Dn. Bandikui,

....Applicant.

VERSUS

1. Union of India through the Secretary to the Govt. of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur
3. Sr. Superintendent, Railway Mail Service, JP. Dn. Jaipur.

....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

This OA u/s 19 of the Administrative Tribunal's Act has been filed against the punishment order dated 28.5.2002 in a disciplinary case, and rejection of appeal dated 13.7.2002. The exact relief clause reads as under:-

"(i) That by a suitable writ order or direction the impugned order dated 20.3.2003 and 28.5.2002 be quashed and set aside and further the respondents be directed to refund the withheld money of the increment for six months with all the consequential benefits.

(ii) Any other relief which the Hon'ble Bench deems fit."

2. The facts of the case are that the applicant, working as Sorting Assistant in the office of RMS, Bandikui was served with a charge sheet dated 26.3.2002 under Rule 16 of CCS (CCA) Rules, 1965 for minor penalty by Respondent No. 3. After going through the reply

thereto, respondent no. 3 ordered penalty of withholding of one increment for six months without cumulative effect vide order dated 28.5.2002. Aggrieved by this order, the applicant filed an appeal which was rejected by the Appellate Authority vide order dated 20.3.2003 (Annexure A/1). Thus aggrieved, the applicant has filed this OA.

3. In the grounds, it is alleged that this was a case of no evidence, that there was no complaint against the applicant for not completing the work in time or leaving any work pending. He carried out the instructions and that work of the HVMOs, which he was asked to do was also done and that he did not utter a single word against the honour of his superior, the Head Sorting Assistant. That he apologised to him for any act or omission but he has been punished due to other considerations. It has also been alleged that Appellate Authority while dealing with the case felt that the applicant was not at mistake but had upheld the punishment order by considering his gesture of polite apology ~~as~~ <sup>for</sup> admission of fault. In fact he had not committed any mistake but in order to maintain the decorum in the office, he had apologised.

4. The respondents have given detailed reply. It is stated that Head Sorting Assistant vide E.R. No. 2 reported that when he asked the applicant regarding his HVMOs work, the applicant told him to give instructions in writing, although it was his duty to do HVMOs work also. The applicant spoke loudly in an unmannered way and misbehaved with the Head Sorting Assistant. He was, therefore, issued Memo. Copy of this ER is annexed as Annexure R/1. The applicant was first asked for explanation which the applicant submitted on 02.02.2002 (Annexure R/2). In this, the applicant has stated that the report (ER No. 2) of the Head Sorting Assistant was not based on facts and the Head Sorting Assistant has falsely reported against him because he was biased against him. For this act of insubordination on the part of the applicant, action against him under CCS(CCA) Rules, 1965 vide Memo dated 26.3.2002, (Annexure A/3) was initiated and the applicant was asked to file representation within ten days. The same was received vide Annexure A/4. After going through it and on finding that applicant had admitted the guilt, penalty of with-holding of one increment for a period of six months without cumulative effect was awarded vide order dated 28.5.2002 (Annexure A/2). His appeal dated 1.7.2002 (Annexure A/5) was rejected vide order dated 20.3.2003 (Annexure R/1).

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5. The same facts are reiterated in parawise reply. It is reiterated that action taken by the respondents was solely as per the rules and as per procedure prescribed for action under Rule 16 of CCS(CCA) Rules, 1965. The applicant was asked to submit his representation within ten days, the same was received in time. The Disciplinary Authority went through it carefully and penalty of withholding of one increment for six months without cumulative effect was ordered. His appeal against the order of punishment was rejected as per rules, after consideration of averment made in it through a speaking and reasoned order. The grounds of illegality are denied because the orders are based on information gathered from officials who were present and working with the applicant on the date of incident and reply submitted by the applicant. That the applicant actually misbehaved with the Head Sorting Assistant and shouted at him in an unmannered way were fully established. That the Head Sorting Assistant had only asked the applicant to do HVMOs work, which was his duty work but the response of the applicant was impolite and rought as if it was not government work. Thus the submission of the applicant that he was punished without any reason is not acceptable. Misbehaviour and disobedience towards the order of superiors and spoiling the atomosphere at work place is covered by definition of misconduct. In proof of this, Annexure R/3, copies of statement of S/Shri K.C. Gurjar, I.D. Purshwani and Ram Gopal are cited. The charges against the applicant are regarding misbheaving and they do not pertain to not doing the work. Therefore, the question of Government work suffering does not arise. His contention that his apology is not confession of guilt is also denied. The charges were found proved on the basis of record and evidence also. Therefore, no fault is found in the order of punishment of the Appellate Authority.

6. During the course of arguments, the learned counsel for the applicant has argued that in this case, a petty matter has been needlessly made to appear large and that in view of the apology, a lenient view was required to be taken by the respondents and in these circumstances, the matter may decided by granting the relief as per relief sought by the applicant. This contention was vehemently opposed by the learned counsel for the respondents. According to him, any leniency in such matter would vitiate the situation as misbehavior indiscipline and insubordinatrion should not be tolerated.

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7, We have given careful consideration to the pleadings and arguments in the case. Firstly, we find no fault in the procedure followed by the respondents. The admission of guilt couched in an apology are enough proof of correctness of the charges, The same are also proved by the statement of witnesses to the incident. Secondly, we are inclined to believe that indiscipline and insubordination in work place cannot be encouraged and in the circumstances of the case, the complaint of the Head Sorting Assistant against the applicant could not have been over-looked by the superiors officers. They, therefore, issued the charge sheet to the applicant. The charges were found fully proved on the basis of statement of persons present at the time of the incident. Thirdly, punishment is not harsh and is commensurate with the charges. Fourthly, this punishment should be viewed as a corrective measure by the applicant and would go a long way in deterring other employees from indulging in indiscipline and insubordination.

8. In the circumstances, the respondents are justified in their action and there is no ground to grant relief. The OA is, therefore, dismissed with no order as to costs.

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(A.K. BHANDARI)

MEMBER (A)

*Conc.*  
(M.L. CHAUHAN)

MEMBER (J)

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