

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

APPLICATION NO.: _____

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
<u>13-11-2007</u>	<p><u>DA 443/2003</u></p> <p>Mr. C.B. Sharma, Counsel for applicant Mr. S.S. Hassen, Counsel for respondents.</p> <p>Heard learned Counsel for the parties.</p> <p><u>Order Reserved.</u></p> <p><u>(J.P. Shukla)</u> M (A)</p> <p><u>(M.L. Chauhan)</u> M (J)</p>
<u>16/11/07.</u>	<p>order pronounced today in the open Court today by the aforesaid Bench</p> <p><u>16/11/07.</u></p> <p>C = O</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JATPUR BENCH, JATPUR.

Jaipur, the 16th day of November, 2007

ORIGINAL APPLICATION NO.443/2003

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER

Bhajan Lal Gupta,
S/o Shri Guru Dayal Gupta,
R/o Village & Post Akbarpur,
Tehsil Alwar,
Distt.Alwar.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
Secretary to the Govt.,
Department of Posts,
Ministry of Communication,
Dak Bhawan, Sansad Marg,
New Delhi.
2. Director Postal Services,
Jaipur Region,
Jaipur.
3. Sr.Suptd. of Post Offices,
Alwar Postal Division,
Alwar.

... Respondents

(By Advocate : Shri S.S.Hasan)

ORDER

PER HON'BLE MR.M.L.CHAUHAN

The applicant has filed this OA thereby praying
for the following relief .

- "i) That entire record relating to the case be called for and after perusing the same dated 2.7.2003 (Ann.A/1) with the punishment order dated 28.3.2002 be quashed and set aside with all consequential benefits.
- ii) That the charge memo dated 10.9.2001 (Ann.A/3) be quashed with the enquiry proceedings, as the same is not justified with the order for put off from duty dated 18.1.2001 (Ann.A/4) with all consequential benefits.
- iii) That the respondents be further directed to reinstate the applicant on the post of Extra Departmental Branch Post Master, Akbarpur EDBO, with all consequential benefits."

2. Briefly stated, the facts of the case are that the applicant while working on the post of Gramin Dak Sewak, Branch Post Master (in short, GDS BPM), Akbarpur Branch Office, Alwar, accepted the deposit of Rs.60,000/- in Government account on 30.12.2000 but he failed to remit the excess cash to the Accounts Office i.e. Alwar Head Office, which resulted the cash balance of the Branch Office to Rs.91,441,10/- against the authorised limit of Rs.500/- on that date. As per the instructions contained in D.G.Post letter No.62-98/87-CI dated 21.1.88 (Ann.R/2), the applicant should have gone to the Alwar Head Office personally and deposited the excess cash in the Accounts Office for which he was entitled to get the daily allowance as well as actual fare for depositing the cash to the concerned Accounts Office i.e. Alwar Head Office or he should have asked the Post Master Alwar to depute a Cash Overseer for collection of the excess cash. But the applicant failed to do so and when on 2.1.2001 the Post Master Alwar Head Office reported the matter to the higher authorities and deputed one Shri Pawan

Kumar, Sorting Postman, for collection of cash from Akbarpur Branch Office, the applicant handed over only Rs.26,000/- instead of Rs.40,000/- to said Shri Pawan Kumar, Sorting Postman, who was deputed for collection of cash from Akbarpur and was authorised to convey the cash amount of Rs.40,000/- at a time. Since Rs.19,250/- were short with the applicant and the same could not make available to said Shri Pawan Kumar, Sorting Postman, as such, a charge-sheet was issued to the applicant vide memo dated 10.9.2001 (Ann.A/3) for violation of Rule-10 of the Gramin Dak Sewak (Conduct & Employment) Rules, 2001. Another charge against the applicant was to the effect that he remained absent from duty during working hours of Branch Office Akbarpur on 4.1.2001 & 5.1.2001. The third charge was regarding retention of the amount beyond the prescribed limit for a period w.e.f. 1.3.2000 to 30.12.2000. Inquiry officer was appointed in the matter and the inquiry officer submitted his report on 11.6.2002, whereby the applicant was held guilty of all the charges. Copy of the inquiry report was also made available to the applicant and the disciplinary authority vide order dated 28.3.2002 (Ann.A/2) passed an order imposing the penalty of removal from service on the applicant. The applicant filed an appeal against the said order, which was rejected vide order dated 2.7.2002 (Ann.A/1). These are the orders, which are under challenge in this OA.

3. The respondents have filed their reply in which the facts as stated above have not been disputed.

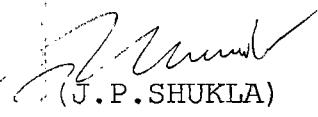
4. We have heard the learned counsel for the parties and have gone through the material placed on record.

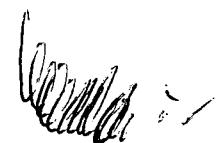
5. Learned counsel for the applicant while drawing our attention to para-4 of the appellate order dated 2.7.2002 (Ann.A/1) argued that even the appellate authority has come to the definite conclusion that the applicant has not misutilised the sum of Rs.19,250/- but he has been held guilty of not depositing the amount on the same date i.e. on 30.12.2000, when he ^{had} ~~had~~ deposited the amount of Rs.60,000/- on account of purchase of NSCs, and he should have personally deposited the said amount in the Alwar Head Office on the same date and he has also failed to hand over a sum of Rs.40,000/- to the Sorting Postman on 2.1.2001 when he was deputed for collection of the aforesaid amount, instead he only handed over Rs.26,000/-. Thus, according to the learned counsel for the applicant, the penalty of removal from service, imposed by the disciplinary authority and confirmed by the appellate authority, is highly excessive.

6. At this stage, we may also note that the applicant has not been charge-sheeted only for this single charge. The charges against the applicant are regarding remaining unauthorised absent on 4.1.2001 and 5.1.2001 and also preparing the document after office hours in order to show that he was not absent and was performing the duties during the aforesaid period. That apart, the applicant has also been held guilty of the third charge regarding retaining the amount in excess during the period w.e.f. 1.3.2000 to

30.12.2000 and showing fictitious payments in respect of various transactions, thereby attracting the provisions of Rule-136 of the Postal Manual as well as Rule-21 of the Gramin Dak Sewak (Conduct & Employment) Rules, 2001. Thus, we are of the view that in the facts and circumstances of this case, it cannot be said that the penalty of removal from service imposed upon the applicant is highly excessive so as to shock the conscious of this Tribunal. As already stated above, the fact of receiving the sum of Rs.60,000/- as on 30.12.2000 is not disputed by the applicant. It is further established from the material placed on record as also admitted by the learned counsel for the applicant that the said amount was not immediately deposited by the applicant personally in the Head Office, which was the requirement as per the instructions issued by the D.G. Posts vide letter dated 21.1.1988 (Ann.R/2). It is also clear from the material placed on record that even on 2.1.2001, the applicant only handed over a sum of Rs.26,000/-, instead of Rs.40,000/-, to the Sorting Postman, who was deputed by the Headquarter for the purpose of collecting the amount. Thus, the charge of retention of excess amount of Alwar Head Office on 30.12.2000 stood fully proved. Similarly, the applicant has been held guilty of remaining absent from duty during working hours of Branch Office on 4.1.2001 and 5.1.2001 and creating a document during the office working hours in order to show that he was present during the period in question also stood fully proved. Further, the applicant ~~was~~ also held guilty of the third charge, whereby he has retained excess payment

of various transactions, which fact proves that the applicant is habitual of retaining excess payments of the Post Office Akbarpur. Thus, under these circumstances, it is not a case where we could interfere regarding imposition of penalty of removal from service awarded against the applicant. It is settled position that the Courts and Tribunals while exercising judicial review do not act as an appellate authority. Scope for interference by courts and Tribunals with the conclusion of guilty is limited to the situation where the proceedings were held in violation of the principles of natural justice or in violation of statutory rules prescribing the order or inquiry or the conclusion or finding reached by the disciplinary authority/appellate authority is based on no evidence or no reasonable person would have reached the conclusion. This is not a case of such nature. Accordingly, the OA is dismissed with no order as to costs.


(J.P.SHUKLA)
MEMBER (A)


(M.L.CHAUHAN)
MEMBER (J)

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