

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Jaipur, this the 25th day of February 2005.

OA No. 611/2003.

CORAM : HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN.
HON'BLE SHRI M. L. CHAUHAN, JUDICIAL MEMBER.

Amar Singh Man
S/o Shri mani Ram
Aged about 56 years,
R/o Village Bhir, Post Bhir,
via Pacheri bari,
Jhunjhunu (Raj.)

...Applicant.

By Advocate : Shri P. K. Sharma .

Vs.

1. Union of India through
Secretary, Ministry of Communication,
Department of Post,
Dak Bhawan,
New Delhi.
2. Director,
Postal Services Rajasthan
(Western Region)
Jodhpur 342001.
3. Superintendent,
Post Office Jhunjhunu,
Jhunjhunu
Rajasthan 333001.

... Respondents.

By Advocate : Shri Madhukar Sharma proxy counsel for
Shri N. C. Goyal counsel for respondents.

:ORDER :

By V. K. Majotra, Vice Chairman.

The applicant has challenged punishment of removal from service in disciplinary inquiry against him. It was alleged against the applicant that while he was functioning as Gramin Dak Sevak, Branch Post Master (GDSBPM, for

short), Bhir and while the applicant was absent from his duties on 27.12.1999 and 29.02.2000, his work was performed by his daughter namely Kumari Senior Sot, when misappropriation in several RD Pass Books occurred. The method adopted by the applicant's daughter was that the amount deposited in RD Accounts on 27.12.1999 and 29.02.2000 was entered and the Post Office seal was fixed in the Pass Books of RD Accounts, a sum of Rs.1600/- was misappropriated. This amount was not accounted in six RD Accounts.

2. Learned Counsel for the applicant contended as follows :-

1. While the applicant had demanded copies of additional documents such as statement of witnesses recorded in the preliminary inquiry, the same were not supplied to him.
2. The amount of Rs.1600/- alleged to have been misappropriated by the applicant was deposited by him with the authorities.
3. The punishment of removal from service is disproportionate to the charge of misappropriation of a sum of Rs.1600/-
4. The Inquiry Officer and the Presenting Officer were appointed by name and not only by the designation.

3. Learned Counsel for the respondents stated that the applicant had allowed his daughter to work during his absence on 27.12.1999 and 29.02.2000 against any rules and instructions which resulted in misappropriation of a sum of Rs.1600/-. The alleged misappropriation was detected during a surprise visit of the Sub Divisional Inspector(P). Even if, the applicant later on deposited a sum of

Rs.1600/- to make up the loss, it cannot absolve him of the charge of misappropriation. In respect of non supply of additional documents, Learned counsel pointed out that applicant had not mentioned any specific documents by name in his request. Therefore, the applicant's request was not exceeded to by the Inquiry Officer and was rejected.

4. Learned Counsel for the respondents in regard to appointment of the Inquiry Officer and the Presenting Officer by name stated that no prejudice has been caused to the applicant by appointing these officers by name. As to the proportion of the punishment, Learned Counsel contended that applicant had indulged in grave mis-conduct and, therefore, penalty of removal from service cannot be said to be disproportionate. Learned Counsel also pointed out that the applicant in his self written statement dated 22.9.2000 (EXP-16) and his daughter Kumari Senior Sot in her self written statement dated 21.09.2000 (EXP-15) accepted misappropriation of the amount.

5. We have considered the respective contentions of the parties as also the material placed on record.

6. Admission of functioning by applicant's daughter in place of the applicant and receiving the alleged amount and not accounting for the same through self written statements has not been denied on behalf of the applicant. Applicant has also not been in a position to rebut the contention of the respondents that in his request for supply of additional documents, he had not mentioned any specific documents with detailed particulars. In this backdrop, rejection of applicant's request for supply of additional documents cannot be faulted with. Applicant has also not been able to prove what prejudiced has been caused to him

by non supply of additional documents, detailed particulars of which were not submitted by him in his request for supply of such documents.

7. True, that the Inquiry Officer and the Presenting Officer had been appointed by name but a mere objection in this regard without establishing what prejudice has been caused to the applicant by the mention of the names of the Inquiry Officer and the Presenting Officer shall not have any force to support applicant's case.

8. The grounds taken on behalf of the applicant in challenging the proceedings brought in against the applicant have not been established before us. As such, finding that the charge against the applicant has been proved, cannot be interfered with. The only issue now remaining to be addressed is whether the penalty of removal from service imposed upon the applicant is disproportionate to the gravity of the mis conduct. The charge against the applicant is indeed very serious and when it has been proved, respondents have inflicted upon him one of the severe most penalty. We are not impressed by the argument of the learned counsel for the applicant that the penalty imposed upon the applicant vis-a-vis the mis conduct is disproportionate in any manner. Interference in this regard can be resorted to, only in exceptional and rare cases. The instant case in its facts and circumstances is not such an exceptional and rare case where the penalty imposed may be considered disproportionate to the gravity of the charge. In the present case, the charge has been proved beyond any doubt. The charge is very serious and in our view an appropriate penalty has been imposed upon the applicant.

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9. If one has regard to the discussion made and reasons stated above, the OA is certainly devoid of any merit and has to be dismissed. Dismissed accordingly.


(M. L. CHATURVEDI)
MEMBER (J)


(V. K. MAJOTRA)
VICE CHAIRMAN