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Central Administrative Tribunal
Jabalpur Bench

OA No.518/05

Jabalpur, this the 7th day of September, 2006

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

Ashok Jakhode
S/o Shri G.L.Jakhode
Postal Assistant
Dhar Head Post Office
R/o H.No.A-211
Abhinandan Nagar
Sykhliya, Indore.

Applicant

(By advocate Shri I.H.Khan)

Versus

1. Secretary to the Govt.of India
Ministry of Communication
Department of Postal Services
New Delhi.
2. The Director of Postal Services
C/o Post Master General
Indore Region, Indore.
3. The Supdt. Of Post Offices
Muffussil Division
Indore.

Respondents

(By advocate Shri S.A.Dharmadhikari)

ORDER

By A.K.Gaur, Judicial Member

By filing the present OA, the applicant has claimed the following relief:

- (a) Punishment order passed by the respondent No.3 (A-III) be quashed and set aside.
- (b) Final order on appeal, passed by the respondent No.2 be quashed and set aside.
- (c) Second punishment of censure be expunged from his record of service.

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2. The brief facts of the case are that the applicant was entrusted with the duties of ledger maintenance at the Head Post Office of Dhar. According to the applicant, after joining the service, the applicant was not given any work in regard to maintenance of ledger. A memorandum No.4-1/99-2000/Ashok dated 5.5.03 was issued to the applicant under rule 16 of CCS (CCA) rules, alleging that during his service between 4.8.97 and 7.4.99 at the Head Post Office of Dhar, the applicant did not tally/verify the specimen signatures of account holders at the time of making entries in the ledger, which amounted to negligence in performance of duty. The date of payment made to customers by the postal Assistant of Sub Post office of Dharampuri District Dhar is mentioned as 17.3.99, and the memorandum was served upon the applicant after a long lapse of 4 years. A reply was given by the applicant to the aforesaid memorandum on 30.5.2003 (A-2), pleading ignorance of procedures etc. Thereafter, an order was issued on 25.8.03 (A-3) whereby two penalties were simultaneously imposed upon the applicant i.e. (i) Recovery of the amount of Rs.17100/- out of his salary in 30 instalments of Rs.570/- each and (ii) Censure (A-3).

3. The applicant submitted his departmental appeal (A-4) addressed to the Post Master General, Indore Region (Respondent No.2) on 9.10.2003. In this appeal, he submitted that the allegations made in the charge sheet are not clear, he was verbally asked by his supervisor to make entries in the ledger, based upon the list of deposits and withdrawals, but the original vouchers were not given to him and in such a situation, it was practically impossible for him to tally or verify the specimen signatures of account holders in absence of original vouchers. The applicant also mentioned in the departmental appeal that he was a new entrant in the Department with less than 5 years service and was not supposed to possess full knowledge of rules on the subject. He was working under the direct supervision of his senior Post Master. Therefore the postmaster who was in charge of the affairs should have been held responsible for the technical mistake and not the subordinate staff. The attention of the

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Appellate authority was also invited by the applicant that one Mankar, the person responsible in this case, was already terminated and no recovery had been made from him. The applicant being innocent in the matter may not be held responsible. The appellate authority after considering the case of the applicant rejected the appeal vide order dated 20.5.2004 and one of the grounds for rejection of the said appeal was that it was submitted after expiry of the time limit. It was also mentioned in the appellate order that there was no substance in the issues raised by the appellant as the charges were very clear and recovery of loss could be ordered along with censure. It is submitted on behalf of the applicant that the departmental appeal was submitted through proper channel, one day before the expiry of the time for filing appeal and the departmental appeal was rejected by the respondents arbitrarily. Being aggrieved by the order of punishment, the applicant has filed this OA.

4. By means of filing a detailed reply, the respondents have submitted that one R.C.Mankar was posted as Sub Postmaster, Dharampuri Sub Post office and during the period from September 1995 to May 1999, he committed fraud in recurring deposit accounts by making forged signature of the depositors. Since Dharampuri Sub Post Office is manned by only one person, as per rule 38(1) of the Post Office Savings Bank Manual Vol.I, the signature of the depositors should have been compared and authenticated by the Head Post Office also i.e. Dhar Head Post office. Copy of the relevant rules has been annexed as R-1. In Para 4 of the reply it is clearly mentioned that while the applicant was working as additional Ledger Assistant Dhar Head Post office, he failed to compare the authenticity of signatures of depositors of the recurring deposit accounts as mentioned in the charge sheet issued to him under Rule 16 of the CCS (CCA) Rules 1965. According to the learned counsel for the respondents, the appellate authority has considered each and every ground taken by the applicant in his appeal, and there is no illegality in the impugned order.

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5. It is, contended on the behalf of the applicant that the respondents did not provide any training to the applicant and as such he was not conversant with the rules regarding the duty as Ledger Assistant. Rule 38 (1)(a) of the Post Office Savings Bank Manual Vol.I was placed before us. The said rule is being extracted below:

"38(1)(a) Procedure in Head Offices in respect of withdrawal at Sub Offices: When the amount of a withdrawal is paid by a sub office the amount paid will be shown in the list of transactions and the charge will be supported by the warrant of payment duly signed by the person to whom payment was made. The balance entered by the depositor on the application shall be checked by the Ledger Assistant with the balance in the ledger card. The signature of the depositor on the application should also be compared by him with the specimen in the application card/S.S card and the signature of the person who received payment on the warrant should be compared with that on the application in the case of withdrawal made at single handed sub offices. In the case of withdrawn made at other sub offices (not LSG or above) the check of the signature should be carried out in respect of withdrawal of Rs.1000/- or above. This check need not be exercised in respect of withdrawal at sub offices in LSG or above."

6. In view of the aforesaid specific provision, the argument advanced on behalf of the applicant that the respondents did not provide any training is without any basis.

7. Having heard Shri I.H.Khan, learned counsel for the applicant and Shri S.A.Dharmadhikari, learned counsel for the respondents, we are of the considered view that in view of the fact that the applicant's appeal is dated 9.10.2003 which is within 45 days of the passing of the penalty order by the disciplinary authority on 25.8.2003, limitation should not have been one of the grounds for rejection of the appeal by the appellate authority. The appellate order does not even mention the date on which the appeal was received on the basis on which the appeal was treated as barred by limitation. Nevertheless, we have also carefully gone through the order dated 20.5.04 passed by the appellate authority and we are of the considered view that the appellate authority has failed to consider all the grounds taken by the applicant in his appeal. In view of the decision of Hon. Supreme Court in 1986

appellate authority was also invited by the applicant that one Mankar, the person responsible in this case, was already terminated and no recovery had been made from him. The applicant being innocent in the matter may not be held responsible. The appellate authority after considering the case of the applicant rejected the appeal vide order dated 20.5.2004 and one of the grounds for rejection of the said appeal was that it was submitted after expiry of the time limit. It was also mentioned in the appellate order that there was no substance in the issues raised by the appellant as the charges were very clear and recovery of loss could be ordered along with censure. It is submitted on behalf of the applicant that the departmental appeal was submitted through proper channel, one day before the expiry of the time for filing appeal and the departmental appeal was rejected by the respondents arbitrarily. Being aggrieved by the order of punishment, the applicant has filed this OA.

4. By means of filing a detailed reply, the respondents have submitted that one R.C.Mankar was posted as Sub Postmaster, Dharampuri Sub Post office and during the period from September 1995 to May 1999, he committed fraud in recurring deposit accounts by making forged signature of the depositors. Since Dharampuri Sub Post Office is manned by only one person, as per rule 38(1) of the Post Office Savings Bank Manual Vol.I, the signature of the depositors should have been compared and authenticated by the Head Post Office also i.e. Dhar Head Post office. Copy of the relevant rules has been annexed as R-1. In Para 4 of the reply it is clearly mentioned that while the applicant was working as additional Ledger Assistant Dhar Head Post office, he failed to compare the authenticity of signatures of depositors of the recurring deposit accounts as mentioned in the charge sheet issued to him under Rule 16 of the CCS (CCA) Rules 1965. According to the learned counsel for the respondents, the appellate authority has considered each and every ground taken by the applicant in his appeal, and there is no illegality in the impugned order.

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SCC (L&S) 383 – Ram Chander Vs. Union of India and others, it was the bounden duty of the appellate authority to consider all the grounds taken by the applicant in his appeal and pass a detailed speaking order in accordance with the provisions of the rules. But without discussing the merits of each ground, the appellate authority has dismissed the appeal.

7. In our considered view, the appellate authority has arbitrarily rejected the departmental appeal of the applicant and has not followed the Supreme Court dictum as has been held in the case of Ram Chander Vs. UOI (Supra). The relevant portion of the decision rendered in Ram Chander's case is being reproduced hereunder:

"That being so, the Appellate Authority must not only give a hearing to the government servant concerned but also pass a reasoned order dealing with the contentions raised by him in the appeal. Although in the absence of a requirement in the statute or the rules, there is no duty cast on an appellate authority to give reasons where the order is one of affirmance, Rule 22 (2) of the Railway Servants Rules in express terms requires the Railway Board to record its findings on the three aspects stated therein. Similar are the requirements under Rule 27 (2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The word 'consider' has different shades of meaning and must in Rule 22 (2), in the context in which it appears, mean an objective consideration by the Railway Board after due application of mind which implies the giving of reasons for its decision. Reasoned decisions by tribunals, such as the Railway Board in the present case, will promote public confidence in the administrative process. An objective consideration is possible only if the delinquent servant is heard and given a chance to satisfy the authority regarding the final orders that may be passed on his appeal. Considerations of fair play and justice also require that such a personal hearing should be given."

8. In view of the aforesaid discussion, the OA is partly allowed. The order passed by the appellate authority dated 25.8.03 is quashed and the departmental appeal of the applicant is remanded to the appellate authority for taking a fresh decision in the matter in accordance with the provisions of law by a reasoned and speaking order without considering the question of delay. This exercise shall be

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completed within a period of three months from the date of receipt of copy of this order.

A.K. Gaur
(A.K. Gaur)
Judicial Member

G.C. Srivastava
(Dr. G.C. Srivastava)
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि अग्रे दिता:-

- (1) सचिव, उच्च न्यायालय इल एसेसिएशन, जबलपुर
- (2) आर्गुमेंटर श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल
- (4) कोषपाल, रो.प्र.अ., जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु

*1-H. Khan Ar
mhad
S.D. Dharmapala
D.V. J.P.*

उप रजिस्ट्रार

D.S. M.
02/12-2006
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