

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
CIRCUIT COURT SITTING AT GWALIOR

Original Application No 1116 of 2004

This the 27<sup>th</sup> day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

Smt. Uma Vijyawargiya  
W/o Late Shri S.P. Vijyawargiya  
Age 52 Years, Occupation :  
Service, R/o P/o Datia, MDG,  
Post Office, Dist. Datia (M.P.)  
Applicant

(By Advocate – Shri D.P. Singh)

VERSUS

1. Union of India  
Ministry of Department of post  
& Telegraph through its  
Secretary, Shastri Bhawan, New Delhi.
2. The Chief Post Master  
General Postal Service,  
(M.P.) Circle Office of the General  
Post Master B-12.
3. The Post Master General  
Indore, Region Indore.
4. The Senior Superintendent  
Post Office, Gwalior Division  
Gwalior (M.P.)  
Respondents

(By Advocate – Shri Gaurav Samadhia on behalf of  
Shri V.K. Sharma)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

“8.1 the orders impugned Annexure A/1 and A/2 may kindly be ordered to be quashed.



8.2 The recovery as ordered deserves to be restrained.

8.3 The respondents be further directed to not to recover the amount from the applicant in the interest of justice."

2. The brief facts of the case as stated by the applicant are that the applicant was initially appointed on compassionate ground vide order dated 23.9.92. On 24.3.2001 while she was holding the charge of Sub-Post Master in place of Mr. K.L. Dohre, payment of certain Kisan Vikas Patra were made by her whereas the Kisan Vikas Patraa were received by Mr. K.L. Dohre and verified by him and a letter was also written for demand of money from the Head Office by Mr. K.L. Dohre. This entire exercise has been done by Mr. K.L. Dohre on 23.3.01 and he has moved an application for Casual Leave for three days i.e. for 24, 25 and 26<sup>th</sup> March, 2001. Vide order dated 16.8.2001(Annexure-A-3), the applicant was placed under suspension and was served with a charge sheet dated 24.12.2001 (Annexure-A-4) on account of misappropriation of Rs.2,84,000 in the respondents department on 24.3.2001. She submitted her reply against the charge sheet and denied all the charges and stated that Mr. K.L. Dohre sub post master who is key person and involved in the matter of forged payment of Kisan Vikas Patra to Ramnat R/o Sikandar, Kampoo, Lashkar, Gwalior and further stated that the fraud has been committed by Mr. K.L. Dohre, therefore he is an accused for committing forgery. The applicant contended that during the course of enquiry the applicant has submitted an application for demand of certain documents, which were not supplied to her. After holding the enquiry, the enquiry officer has submitted his enquiry report Annexure-A-9 and on receiving the enquiry report, the applicant has submitted her objection on 12.3.2003 (Annexure-A-10). The applicant further contended that the enquiry officer has not found her guilty for misappropriation. Despite of these facts, the respondent No.2 has passed the impugned order of dismissal on 12.5.2003 (Annexure-A-2). Thereafter, the applicant preferred an appeal before the appellate

authority and the appellate authority has found that the contention of the applicant is correct and set aside the order of dismissal but it has directed that an amount of Rs.2,84,000/- to be recovered from the applicant in 100 equal installments and further directed to lower down one scale for 4 years with non-cumulative effect. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.

4. It is argued on behalf of the applicant that the entire exercise has been done by Mr. K.L. Dohre on 23.3.2001 regarding payment of certain Kishan Vikash Patra, and thereafter he has moved an application for 3 days casual leave stating that his sister died at Jalaun. However, under the bonafide trust on the senior member, the applicant signed the concerned documents and had certified the payment and she was falsely implicated by Shri K.L. Dohre. The learned counsel for the applicant also argued that certain documents were not furnished to the applicant during the enquiry proceedings. She has submitted her representation against the enquiry report, however which was not considered by the respondents while the charges against the applicant were not proved by the enquiry officer, even then the disciplinary authority passed the impugned order of dismissal on 12.5.2003. She filed an appeal against the order of the disciplinary authority before the appellate authority, the appellate authority modified the aforesaid order of the disciplinary authority, vide order dated 9.12.2003. However it has been directed that the amount of Rs.2,84,000/- be recovered in 100 equal installments from the applicant and further directed to lower down one scale for 4 years with non-cumulative effect.

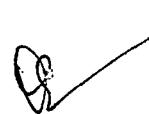
5. It is argued on behalf of the respondents that the applicant was found responsible for not discharging her duty with sincerity and honesty. Bogus payment of fake Kisan Vikas Patras to the tune of Rs. 29,97,220/- were made either individually or collectively by the

applicant. All the payments were made to the fake person on the basis of transfer on NC 32 without following the rules and procedure prescribed by the department. An F.I.R. was lodged against the applicant. The applicant was found responsible for loss of Rs.2,84,000/- only and for which a charge sheet was issued to her. The learned counsel for the respondents also argued that the applicant is trying to create confusion and take advantage out of it. The applicant was working as Sub Post Master Collectorate as on 24.3.2001 as admitted by the applicant. She made irregular payment of Rs. 2,84,000/- as KVP bogus payment, which was made without observing the rules and procedure prescribed by the department. Shri K.L.Dohre, Sub Post Master, Gwalior Collectorate Post Office was also charge sheeted under Rule 14 of CCS (CC&A) Rules, 1965. During the pendency of the disciplinary case he retired on attaining the age of superannuation and his case was submitted on 13.12.2003 to higher office for further action under Rule 9 of CCS (Pension) Rules, 1972. The learned counsel for the respondents further argued that the enquiry officer has specifically and categorically found that the charges leveled against the applicant are proved. On the basis of the material available on records the disciplinary authority has awarded the punishment order of dismissal from service on 12.5.2003 and thereafter applicant preferred an appeal before the appellate authority. The appellate authority taking into consideration the facts and circumstances and also appeal of the applicant modified the punishment order of dismissal of the applicant. The learned counsel for the respondents has drawn our attention towards para 4 of Annexure-R-3 wherein it is mentioned that the applicant had taken over the charge from Mr. K.L. Dohre without permission of the department and not informed to the office.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant was on duty on 24.3.2001 when the whole incidence took place while the then

Postmaster Mr. K.L. Dohre was on leave. According to the respondents the applicant made KVP bogus payment of Rs. 2,84,000/- without observing the rules and procedure prescribed by the department. We find that the applicant has herself mentioned in her OA that she signed the concerned documents and had certified the payment. We also find that a full fledged enquiry has been held against the applicant as per rules and procedure. The applicant has been given full opportunity of hearing. A copy of the enquiry report was also served on ~~him~~ before imposition of the punishment order and after considering ~~his~~ representation, the disciplinary authority has imposed the penalty of dismissal from service. Thus, the principles of natural justice have been followed by the respondents. It is well settled legal position that the Tribunal cannot interfere with the findings of the enquiry officer or competent authority unless they are arbitrary or perverse. The Tribunal also cannot go into the quantum of punishment. In this case we further find that the disciplinary authority has passed the order of dismissal on the applicant. However the appellate authority has considered the facts and circumstances of the case of the applicant and modified the order of the disciplinary authority.

8. Considering all the facts and circumstances of the case, we do not find any illegality or irregularity committed by the respondents while passing the impugned order. Hence, the OA is bereft of merits. Accordingly, the same is dismissed. No costs.

  
 (Madan Mohan)  
 Judicial Member

  
 M.P. Singh  
 Vice Chairman