

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 266 of 2004

Indore this the 18th day of Oct 2005

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

B.P. Ganak, S/o. Shri Baboolalji Ganak,
Aged 50 years, Occupation – Sorting Asstt.
S.R.O., R.M.S. M.P. Division, Gwalior,
R/o. Hem Singh Ki Pared, Lashkar,
Gwalior, M.P.

.... Applicant

(By Advocate – Shri S.C. Sharma)

Versus

1. Union of India, through :
The Secretary to the Government of
India, Department of Post, Dak Bhawan,
New Delhi.
2. The Chief Post Master General,
M.P. Circle, Dak Bhawan, Bhopal.
3. The Superintendent, RMS,
M.P. Division, Bhopal-3.

.... Respondents

(By Advocate – Shri P.N. Kelkar)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main relief :

“(A) that, orders of penalty contained in Annexure A/25 dated 21.12.98, order of appellate authority contained in Annexure A/27 dated 12.5.2000 and the order of revisioning authority contained in Annexure A/29 may kindly be quashed and the respondents be directed to give all the arrears pay reduced on account of penalty and the increments withheld illegally and the arrears thereof.”



2. The brief facts of the case are that the applicant was appointed on the post of Sorting Assistant in the Railway Mail Service, Department of Posts, with effect from 1976. He was posted during the period 1995 in the office of SRO, RMS, Gwalior. The respondent No. 3 issued a charge sheet against him on 30.5.1995 (Annexure A-1) in which two charges were framed against him. Firstly while performing the OT duty in Gwalior RMS/3 on 14.1.1995 starting from 22.00 hours to 4.00 hours the applicant dumped about 2,000 unsorted letters into the sorted letters. The second charge was that while performing the duty in the noted capacity on being verbally questioned for dumping of unsorted letter mail into various letter bundles containing sorted letter mail during checking of the same by Shri Ramdeo, HSA Gwalior on 14.1.1995 indulged in misbehaviour and man handling with Shri Ramdeo in the SMO. The applicant submitted an application requesting to provide him charge sheet in Hindi but it was not provided. The presenting officer supplied enlisted documents to the charge sheet on 19.7.1996. The applicant demanded the additional 15 documents from the enquiry officer. Out of which only 7 documents were provided and for the rest it was stated that they are not available in record. With regard to the second charge about scolding, filthy language threatening and assaulting, the prosecution examined large number of witnesses but none of the witnesses supported the charge and the enquiry and the disciplinary authority did not treat this charge as proved. The presenting officer submitted his brief on 24.6.1998 to the enquiry officer with a copy of which was sent to the applicant. The enquiry officer on the very beginning was favouring the case of the presenting officer and he afforded one month time to the presenting officer to submit his brief, which clearly establishes the arbitrary, discriminatory and biased attitude of the enquiry officer. Without receiving the representation of the applicant the enquiry officer submitted his enquiry report on 15.9.1998. A copy of which was sent to the applicant. The applicant submitted representation against this report on 12.10.1998 (Annexure A-24). The disciplinary authority passed the order of punishment on 21.12.1998



inflicting the penalty of reduction of basic pay from Rs. 4900/- to five stage below Rs. 4400/- for next 5 years with cumulative effect. He preferred an appeal which was dismissed vide order dated 12.5.2000 (Annexure A-27). He also preferred a revision petition which was also dismissed vide order dated 26.9.2003 (Annexure A-29). Hence, this Original Application is filed.

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

4. It is argued on behalf of the applicant that the applicant was on duty on 14.1.1995 from 22.00 hours to 4.00 hours. During the period from 2.00 to 2.30 hours the alleged irregularity of 2,000 unsorted letters were dumped with the sorted letters. This charge is alleged to have been proved by the enquiry officer. According to the rules such charge cannot be framed because the applicant was on duty from 22.00 hours to 4.00 hours and the incident occurred at 2.00 hours. Hence, according to the rules the applicant was required to hand over the concerned documents/materials after completion of his duty hours i.e. after 4.00 hours and not before. The second charge is not proved by the enquiry officer himself. Apart from it copies of the relevant documents were not furnished inspite of his demand and the Hindi version of the charge sheet was also not provided to him while it was demanded by the applicant from the respondents. The enquiry officer was biased and therefore was favouring the case of the presenting officer. The whole departmental enquiry proceedings conducted by the respondents is against the rules and procedure prescribed by them. The learned counsel for the applicant further submitted that according to rules no such article of charge No. 1 could have been framed against the applicant. Hence, the question of this being proved does not arise, as he was on duty upto 4.00 hours on that date. Hence, this Original Application deserves to be allowed.



5. In reply the learned counsel for the respondents argued that as per the service book of the applicant he has passed 12th standard with English as a subject. The contents of the entire present application of the applicant are in English and this has been verified by him to be true and correct to his personal knowledge. This shows that the plea of ignorance of English is only a pretext for delaying the enquiry. Non providing of charge sheet in Hindi has not caused any prejudice to the applicant in defending the charges leveled against him. The whole documents were made available to the applicant which were relevant and available. Some of the additional documents demanded by the applicant were not made available because these documents were weeded out after the expiry of the period of preservation prescribed under the rules. It is not correct to say that the enquiry officer was favouring the case of the presenting officer. The entire proceedings of the enquiry officer stood testimony to his independent and impartial attitude. The presenting officer submitted his brief on 24.6.1998 since the applicant was avoiding to file his brief for one reason or other just to delay the proceedings. The enquiry officer prepared and submitted his report on 15.9.1998 without further waiting for applicant's brief. The applicant was duty bound to do correct sorting but as found by the enquiry officer the applicant had dumped 2000 unsorted letters in the sorted bundles. The argument advanced on behalf of the applicant that according to rules the applicant was not answerable before completion of his duty hours i.e. 4.00 hours is not correct as he is required to do his duties in the proper way prescribed under the rules. Such type of mistake could have been deducted at anytime of the duty hours. The applicant has submitted his representation against the enquiry officer's report. He preferred an appeal against the order of the disciplinary authority and also revision petition against the order of the appellate authority. Hence, he was given due opportunity to defend his case. The article No. 1 was duly proved against the applicant. Hence, it is not a case of no evidence. The action of the respondents is perfectly legal and justified and this Original Application deserves to be dismissed.



6. After hearing the learned counsel for the parties and careful perusal of the pleadings and records, we find that the applicant is alleged to have passed 12th standard with English as a subject and he has also verified this OA which is typed in English to be true and correct to his present knowledge. Thus the argument advanced on behalf of the respondents that the plea taken by the applicant of ignorance of English had been only a pretext for delaying the enquiry, seems to be correct. Non providing of the charge sheet in Hindi has not caused any prejudice to the applicant in defending the charges leveled against him. All the relevant documents which were available with the respondents were supplied to the applicant and some documents which were not available, as these are said to be weeded out after the expiry of certain period as per rules, were not supplied to the applicant. The applicant could not show any prejudice caused to him on account of non-supply of the documents which were not available. The applicant is well aware with the allegations leveled against him. The first allegation was that he had dumped about 2,000 letters with the sorted letters. This charge is proved against the applicant. The charge No. 2 is not proved against the applicant by the enquiry officer. The argument advanced on the behalf of the applicant that he is only answerable after completion of his duty hours at 4.00 seems to be not correct and is rejected, as he required to do his work properly and with utmost sincerity. We have perused the report the enquiry officer by which this charge No. 1 leveled against the applicant is proved and established. The applicant was given the report of the enquiry officer and he has submitted the representation against it. The disciplinary authority has passed the impugned order dated 21.12.1998 (Annexure A-25) after considering the enquiry report and the representation of the applicant on the enquiry report. The applicant preferred an appeal against the order of the disciplinary authority and the same was rejected vide order dated 12.5.2000 (Annexure A-27). He also filed a revision petition which was also dismissed vide order dated 26th February, 2003 (Annexure A-29). We



have perused the aforesaid orders passed by the authorities concerned and we find that these orders are speaking, detailed and reasoned. It is a settled legal proposition that the Courts/Tribunals cannot reappraise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals.

7. Considering the facts and circumstances of the case, we are of the considered view this Original application deserves to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

कृष्णकमल सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अर्पण शित:-

- (1) सचिव, उच्च न्यायालय और एडमिनिस्ट्रेशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल J.C. Sharma } Adv
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल P. N. Kelkar } Adv
- (4) वंशपात, के.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

जबलपुर

Filed
26-10-05