

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH

Original Application No. 567 of 2004

Jabalpur, this the 6th day of May, 2005

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

B.K.Shaive
S/o Shri Ghanshyam Prasad Shiave
Ex Postmaster
Bhatta Mohalla P.O.
R/o Railway Cantt (Neewar)
Dist. Katni (M.P.)

Applicant.

(By advocate Shri S.P.Sinha)

Versus

1. Union of India through
The Secretary
Department of Posts
New Delhi.
2. The Director
Postal Services
Raipur Region
Raipur (CG)
3. The Senior Superintendent of Post Office
Jabalpur Division
Jabalpur (M.P.)
4. The Member (P)
Postal Services Board
Ministry of Communications
Department of Posts
New Delhi.

Respondents.

(By advocate Shri S.A.Dharmadhikari)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:



- (i) Quash the orders dated 3.3.97 (Annexure A1), 5.3.98 (Annexure A2) and 8.2.2000 (Annexure A3).
- (ii) Direct the respondents to reinstate the applicant with all consequential benefits i.e. back wages, increments and promotion on regular basis or under Time Bound Promotion Scheme.

2. The brief facts of the case are that the applicant while serving as Sub Post Master at Post Office Bhatta Mohalla, Katni, met with a serious accident. The applicant was not able to perform writing work due to fracture in his both hands and requested for giving a helper while performing his duties. But no helper was provided. Ultimately the applicant took help of his peon Gulab Singh for performing writing work. For some irregularities committed by Gulab Singh, the applicant was made a scape goat. For these irregularities, offences under Sections 420, 467, 468 & 34 were registered against the applicant along with the above named peon. Thereafter, a departmental enquiry was initiated against the applicant, but the respondents did not inform the applicant and notices sent to wrong addresses were returned unserved. When the applicant came to know about the enquiry, an ex-parte enquiry was already held against the applicant. Relevant documents were not supplied to the applicant. The applicant was not even permitted to inspect the documents. Even the memo of charge sheet (Annexure A8) was delivered to the applicant without annexing any documents. The charge sheet mentions three charges. They are (i) that while working as SPM, Katni, the applicant accepted a sum of Rs.700 for deposit in SB account. He made entries of deposit in PB but failed to account for the deposit in Government account (ii) that while working as SPM Katni, he accepted a sum of Rs.3500 for deposit in SB account but failed to deposit the amount in Government account and (iii) that while working as SPM Katni, he allowed withdrawal of Rs.2000 from SB account without knowledge of the depositor. On completion of the enquiry, the applicant was placed under suspension and thereafter vide Annexure A1 order dated



3.3.97 he was dismissed from service. The applicant preferred an appeal which was rejected vide order dated 5.3.98. The revision petition submitted by the applicant was also rejected vide order dated 3.2.2000. Hence this OA is filed.

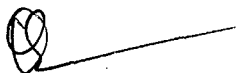
3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that due to the accident, the applicant was not able to perform the writing work and he requested the respondents to provide a helper. But no helper was given to him. Hence the applicant took the help of his peon. If any irregularity was committed, it was committed by Gulab Singh, the peon. The enquiry was conducted ex-parte which is illegal and liable to be quashed. The enquiry officer performed the role of prosecutor in as much as he himself directed the department to produce the documents in his absence and he did not allow the applicant to inspect the said documents. The applicant was not given opportunity to produce defence witnesses. There is no evidence on record to prove the charges levelled against the applicant. The action of the respondents is illegal, arbitrary and in violation of CCS (CCA) Rules as also against the principles of natural justice. Hence the OA deserves to be allowed.

4. In reply, the learned counsel for the respondents argued that the charges levelled against the applicant were duly proved and established by the enquiry officer on the basis of documentary evidence. While working as SPM Katni, the applicant accepted a sum of Rs.700 and Rs.3500 for deposit in SB Accounts. He made entries of deposit in the passbook but failed to account for the said amounts in Government account and further he allowed withdrawal of Rs.2000 from SB Account without knowledge of the depositor. These charges are serious in nature and it shows lack of integrity on the part of the applicant. All relevant documents were supplied to the applicant and rather these documents were well within the knowledge of the applicant himself. He was permitted to cross examine both the



witnesses whose statements had already been recorded by the enquiry officer in his absence. Hence he cannot say that no opportunity of hearing was given to him. The respondents have neither committed any irregularity nor any illegality in conducting the departmental proceedings against the applicant and the impugned orders passed against the applicant are perfectly speaking, reasoned and detailed orders.

5. After hearing the learned counsel for both parties and perusing the records, we find that the charges levelled against the applicant are serious in nature. He accepted a sum of Rs.700 and Rs.3500 for crediting in the Government account but failed to do so and further he allowed withdrawal of Rs.2000 from bank without the knowledge of the depositor. The arguments advanced on behalf of the applicant that due to a serious accident, he sustained injuries in both his hands and hence he could not perform his writing duties and he had to seek the help of a peon when the department did not ^{help} oblige him, cannot absolve the applicant from the aforesaid actions of misappropriation of money. The enquiry officer permitted the applicant to cross examine both the witnesses whose statements were recorded by him earlier. Hence the applicant cannot say that no opportunity was given to him. The respondents issued notices to him at his given address several times, which were returned unserved. The allegation that the applicant came to know about the departmental proceedings later is also not supported by any evidence. We have perused the impugned orders passed against the applicant. These orders are perfectly speaking and reasoned orders. The charges levelled against the applicant are serious in nature and if such types of actions are permitted, the public at large will lose its faith in the postal department. The applicant does not deserve any leniency in the punishment awarded by the respondents.



6. Considering all facts and circumstances of the case, we are of the considered opinion that the OA is devoid of merit, and is liable to be dismissed. Accordingly, the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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

प तिलिपि अचो धित :-

(1) सचिव, उच्च न्यायालय न्याय विभाग, जबलपुर

(2) आवेदक श्री/श्रीमती/श्री.....के कोषसल

(3) प्रत्यर्था श्री/श्रीमती/श्री.....के काउंसल

(4) न्यायालय, न्याय विभाग, जबलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

उप राजस्वद्वारा

S.P. Singh Adv. MBP
S.D. Sharma Adv. MBP
Adv. MBP

guzed
8/6/15