

CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH, JABALPUR

O.A. No. 927 of 2004

Date of order : 6th May, 2005

C O R A M

Hon'ble Mr. M.P. Singh, Vice-Chairman
Hon'ble Ms. Sadhna Srivastava, Member(J)

Devendra Prasad Mishra, son of Shri Mahanand Mishra aged about 51 years, Gram Dak Sewak resident of Jharkua Kudfra, Gtahsil Amanganj, District- Panna (MP).
..... Applicant.

Vrs.

1. Union of India through the Secretary Indian Post and Telegraphs Department New Delhi.
2. Chief Postmaster, Madhya Pradesh Region, Head Post Office, Bhopal (MP)
3. Superintendent of Post Offices, Chhatarpur Division, Chhatarpur (MP).
..... Respondents.

Counsel for the applicant : Shri Rakesh Jain
Counsel for the respondents : None.

O R D E R

By Sadhna Srivastava, Member(J) :-

This application is directed against the order of disciplinary authority awarding the punishment of removal from service from the post of Gramin Dak Sewak Branch Post Master at Jharkua- Kudra, Amanganj dated 30.5.2003, as contained in Annexure-4, confirmed in appeal vide order dated 3.8.2004 as contained in Annexure 1.

2. The facts of the case are that the applicant was appointed as G.D.S.B.P.M.,

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Jharkua , District - Panna w.e.f. 19.7.1987. The applicant soon after the appointment, as admitted by him constructed a house at Amanganj, The respondents issued a notice on 10.7.2001 to the effect that the applicant is not residing at Jharkua but residing at Amanganj and that it is not a condition precedent for appointment to the post of G.D.S.B.P.M. to reside in the village where the post office is situated under Gram Dak Sewaks (Conduct & Employment) Rules 2001 (hereinafter referred to as Rule 2001). The applicant did not comply, therefore, he was put off duty w.e.f. 16.5.2002 and a charge-sheet dated 16.7.2002 as contained in Annexure-2 was served on him. The sole charge is that he was required to reside Jharkua but he was residing at place where he was carrying medical practice in violation of Rules 2001.

3. It may be stated here itself that there is no charge regarding his unsatisfactory work. Hence, we will confine ourselves only on the question whether the applicant is residing at Jharkua or Amanganj. The applicant, however, seems to be labouring under belief that if there is satisfactory performance in the function of the village post office, Jharkua , it is not mandatory for him to reside at village Jharkua. The applicant in his statement also stated that some time he stays at Jharkua and some times at Amanganj. The statement of witnesses are also to the effect that the applicant comes from Amanganj to attend the work of Post Office and goes back to Amanganj. The applicant is under a belief that on the basis of such statements on the part of the witnesses, the punishment of removal from service is unjustified.

4. On perusal of Rule 2001, it would appear that Rule 3 Note II Clause (vii), residence in the post village in the delivery jurisdiction of the post office is mandatory. Earlier, the rules requires that the person who takes over the agency should be

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permanent resident of the village where the post office is located. In some of the judicial pronouncements, it was observed that it may be violative of the constitution to restrict the agency to the permanent residents of the village. Thereafter, in the amended rules the work ' permanent' has been deleted but resident of village is still mandatory for the agency holder.

5. The Inquiry Officer, Disciplinary Authority and the Appellate Authority on the basis of evidence on record, have concluded that the applicant is not a resident of village Jharkua but performing the work of GDS BPM while residing at Amananj, i.e. he is coming from Amanganj to carry the work of the Post Office. The appellate authority in its order as contained in Annexure-1 has very well discussed the evidence of the witness and the statement of the applicant and other evidence on the basis of which the charge-sheet was issued. It may also be mentioned that the appellate authority in its order in para 3 has also explained by reference to the order-sheet dated 19.12.2002 recorded by the inquiry officer about the validity of bringing on record the inquiry report and its annexures.

6. It is established that the Tribunal is not required to assess the evidence. The Tribunal can only interfere with the finding of the disciplinary authority if the same is perverse or based on no evidence.

In the facts and circumstances of the case, we cannot hold that the findings of the disciplinary authority is perverse and not based on any evidence. We do not, therefore, find any ground to interfere with the punishment awarded to the applicant. It is also not the case of the applicant that the punishment is not commensurate with the charges leveled against the applicant.

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7. The O.A. is accordingly dismissed with no order as to cost.

Sadhna Srivastava
(Sadhna Srivastava)
Member(Judicial)

M.P. Singh
(M.P. Singh)
Vice-Chairman

mps.

पृष्ठंकन सं ओ/न्या. जयलपुर, दि.
प्रतिनिधि लगे/वि.

- (1) सचिव, उच्च न्यायालय, जयलपुर
 - (2) अवर सचिव, उच्च न्यायालय, जयलपुर
 - (3) प्रवर्तनी अधिकारी, उच्च न्यायालय, जयलपुर
 - (4) न्यायालय, जयलपुर, जयलपुर न्यायालय, जयलपुर
- सूचना एवं आवश्यक कार्यवाही हेतु
- जयलपुर जज

Rekesh Jais
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