

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

...

Original Application No. 347/2003

Jabalpur, this the 25th day of June, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

Hari Om Shrivastava s/o Sh. Jagannath Prasad,
Resident of village Tal, Teh. Sironj,
District Vidisha.

...Applicant

(By Advocate: Shri P.C. Shandok by Ms. R. Nair)

-versus-

1. Union of India
Ministry of Postal Department,
New Delhi.

2. D.C. Bhavsar,
Enquiry Officer & Office Superintendent,
O/O Supdt. of Post Office,
Vidisha.

3. Sub-Divisional Inspector (P)
Ganjpansad, Vidisha.

4. Superintendent of Post Office,
Vidisha.

5. Chief Post Master General,
Bhopal.

...Respondents

(By Advocate: Shri K.N.Pethia)

ORDER

By Madan Mohan, Member (Judicial) -

By filing the present original application, the applicant has sought the following main reliefs:-

i) to set aside the order at Annexure A-9 passed by the respondent no. 5 and punishment order Annexure A-7 passed by respondent no. 4.

ii) to direct the respondents to take the applicant in service with full back wages with consequential benefits and continuity in service.

2. The brief facts of the case are that the applicant was appointed on the permanent post of E.D.D.A. and was posted to distribution of post under the Post-Master Branch Post Office Tal (Sironje) Vidisha District. The allotted duty to the applicant was only to distribute post (dak)

and to do other works whatever directed by the Post Master under his own supervision. On 2.2.1995 in the morning one sealed T B of Deepanakheda branch contains B.O. Bag of Divisional Accounts Office Sironge received by Branch Post Master Tal and he opened the same and kept with him thereafter the applicant ~~was~~ distributed salary and thereafter on the direction of the Branch Post Master, the applicant proceeded for performing his duty of distributing the dak. All of a sudden on 9.2.1995 Inspector Post Office, Sub Division Ganjbasoda accompanied with Mail Overseer visited the applicant and took into into a closed room and threatened and forced him to write that he opened the BO Bag of Kariyaghat and taken Rs. 2000/- from it and thereafter closed it with seal of Tal B.O. thereafter they obtained forcefully signature on the report prepared by the Inspector and after obtaining the signature on it the applicant was assured by them that no action will be taken against him. Further the Inspector Sironge branch has directed the applicant to pay Rs. 2000/- immediately otherwise services of the applicant will be terminated. Being feared with termination of his services, the applicant deposited the said amount of Rs. 2000/- on 4.3.1995. The applicant being a less qualified person could not understand the chaotic situation. On 2.8.1995 the applicant was served with a chargesheet framed against him by the Inspector and enquiry was initiated against him. Respondent no. 2 was appointed as Enquiry Officer who submitted his report on 30.9.1999. The respondent no. 3 imposed the punishment of dispensed with the applicant from appearing in the departmental examination for a period of three years. It is further submitted without affording opportunity of filing appeal or revision, respondent no. 4 vide its order dated 7.6.2000 for revision of punishment imposed upon him into major punishment of removal from service against which submissions of applicant was sought within 15 days.



Accordingly the applicant submitted its submission that the enquiry conducted against him was not legal and proper as it was not completed by recording complete statements of defence witnesses as well as statement of Branch Post Master who was sole responsible person of the post office Tal and had received the T.B. from the Accounts office of Sironge. Thus he submitted his counter review application to modify the punishment in lesser alteration by going through the enquiry report and consider his case mercifully. On the contrary, the respondent no. 4 has rejected the submission of the applicant without any basis and enhanced the punishment from suspension from appearing in departmental examination for three years to removal from service which is harsh and excessive. Aggrieved with the said punishment the applicant preferred an appeal to the respondent no. 5 which was rejected vide order dated 14.1.2003 maintaining the order of respondent no. 4. Hence, the present original application has been filed by the applicant seeking the aforesaid reliefs.

3. Heard the learned counsel for both the parties and carefully perused the material on record.

4. Heard counsel for the applicant argued that the charges against the applicant cannot be said to have been proved as the enquiry officer has given his finding on the basis of imaginations only which cannot take place of the proof. Moreover, the respondents have not taken any action against the Branch Post Master who was mainly responsible for the alleged incident. The applicant was not given proper opportunity of hearing. It is further argued that the applicant was initially imposed with the penalty of suspension from appearing in the departmental examination for three years but after filing his representation against such penalty he received Annexure A-5 proposing enhancement of punishment to removal from service against which he was submitted its representation but was in vain. In other words the respondents



wanted to remove the applicant from service. Therefore, the appellate authority vide annexure A-7 imposed the punishment of removal from service on the applicant without assigning any reason and without considering the circumstances that the applicant was threatened and forced by the Inspector Post Office accompanied with Mail Overseer and took him to the closed room to write that he opened the BO Bag of Kariyaghat and taken Rs. 2000/- from it and thereafter closed it with seal of Tal B.O. thereafter they obtained forcefully signature on the record prepared by the Inspector and after obtaining the signature on it the applicant was assured by them that no action will be taken against him. But immediately he was asked to pay Rs. 2000/- otherwise his services will be terminated. The applicant afraid of termination of his services, deposited the aforesaid amount of Rs. 2000/- on 4.3.1995, whereas he has not committed any fault at all. Hence, the whole proceedings relating to departmental enquiry and the impugned orders passed by the concerned authorities are illegal and are liable to be quashed and set aside.

5. In reply, the learned counsel for the respondents argued that the disciplinary authority after taking into consideration all aspects of the matter imposed the penalty of debarring the applicant from appearing in the departmental examination for three years but the punishment was revised by the competent authority and proposed enhancement of the said penalty to that of removal from service. The applicant was given sufficient opportunity of hearing for submitting his representation. The applicant submitted his representation dated 25.7.2000. Hence, the applicant was properly punished for his misconduct and there is no illegality or irregularity committed in the impugned orders. It is further argued that the story made by the applicant is an afterthought. Had it been a fact, the applicant would have immediately approached the higher authorities but he did not do so. He even did not disclose anything during the course of open enquiry which



clearly shows that it is an afterthought. It is a fact that the applicant had credited an amount of Rs. 2000/- but there was no compulsion, threat or pressure on him as alleged. It is further argued that the charges levelled against the applicant were established and the findings are based on the material and evidence adduced on record and the enquiry findings are not perverse. He further argued that the present case is not a case of 'no evidence'.

6. After hearing the learned counsel for the parties and careful perusal of the record, we find that before enhancing the punishment to removal from service a show cause notice was given to the applicant vide letter dated 7.6.2004 and the applicant was given due opportunity of hearing. The applicant also submitted his representation against it. We have perused the impugned orders dated 28.2.2001 (A/7) which is a very detailed, speaking and reasoned order and subsequently the appellate authority has passed the order dated 14.1.2003 (A/9) which is also apparently a speaking and reasoned order. So far as the allegation of the applicant about threat and forcing him to commit the alleged act and to deposit the amount of Rs. 2000/- seems to be vague and baseless as the applicant is an experienced and responsible person and he did not inform about it to the higher authorities. He could have even lodged the F.I.R. also in this regard because this is an offence punishable under law. Moreover, he himself has deposited the alleged amount of Rs. 2000/- and, therefore, he cannot say that he had not taken the said amount from the B.O. Bag. We also see that the charges levelled against the applicant relate to moral turpitude which are grave in nature and, therefore, the punishment imposed on the applicant is commensurate with the charges. This is also not a case of 'no evidence' as he has been given proper opportunity of hearing. As such the respondents have not committed any irregularity or illegality while passing the impugned orders. It is the settled legal position that the Tribunals/Court cannot



re-appraise the evidence and even cannot go into the quantum of punishment.

7. Having regard to the facts and circumstances of the case and in the light of observations made above, we are of the considered view that the O.A. does not have any merit and deserves to be dismissed which is accordingly dismissed. No costs.



(Madan Mohan)
Member (Judicial)



(M.P. Singh)
vice Chairman

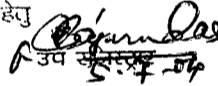
पूछांकन सं ओ/ब्या.....जबलपुर, दि.....

प्रतिलिपि जहाँ भिजल:-

- (1) सचिव, उच्च न्यायालय नगर एचोरि/एचान, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के कारंमल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के कारंमल
- (4) कोषपाल, कोषा, जबलपुर न्यायपीठ

PC Chandak
KN Petlia

सूचना एवं आवश्यक कार्यावाही हेतु


उप

Fused
5/7/09