

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 400 of 2003

Jabalpur, this the 20th day of April, 2005.

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

Lakahram Mourya, S/o. Punnaram,
Ex. Extra Departmental Delivery Agent,
Branch P.O. Beru (Takenpur), Dabra,
Gwalior, R/o. Village Kardu
(Takenpur).

.... Applicants

(By Advocate – Shri B.D. Kargaiyan)

V e r s u s

Union of India, through :

1. The Secretary,
Ministry of Communication, New Delhi.

2. The Principal Chief Postmaster General,
M.P. Circle, Bhopal.

3. The Director Services, Indore Region,
Indore.

4. The Senior Superintendent of Post Offices,
Gwalior Division,
Gwalior – 474009.

.... Respondents

(By Advocate – Shri P.N. Kelkar)

O R D E R

By Madan Mohan, Judicial Member –

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

“(8.1) that, the impugned order Annexure A-1 and Annexure A-11 of removal from service may kindly be set aside and the respondents be directed to reinstate the applicant on the post of



Extra Departmental delivery agent (Village Postman) Beru, (Tekanpur) w.e.f. 30.5.1997."

2. The brief facts of the case are that the applicant was initially appointed as Extra Departmental Agent at Branch Post Office Beru (Takenpur) vide memo dated 29.11.1980. In May, 1995 the post of Branch Post Master had fallen vacant due to promotion and the charge of BPM was transferred to the applicant with effect from 4.5.1995 in addition to the applicant's own duty. The applicant while performing the duty was issued with a charge sheet vide memo dated 20.2.1997. The applicant denied the charges and replied the charge sheet vide written statement of defence dated 5.3.1997. He was put off from duty vide order dated 16.5.1996 (Annexure A-5). The enquiry officer did not comply with the statutory rules before completing the enquiry proceedings and he failed to observe and adhere these rules and dropped the enquiry proceedings, forthwith merely in one sitting without obtaining leave from the disciplinary authority and thereby the applicant was deprived of the opportunity to defend against the charges. Even the copy of the concerned documents were not supplied to the applicant on his demand. The report of the enquiry officer dated 21.4.1997 is totally vague and does not deal with any evidence brought on record in support of the charges leveled against the applicant. Even the statement of the applicant was not recorded. The disciplinary authority vide order dated 30.5.1997 imposed a major punishment of removal from service on the applicant. The applicant filed an Original Application No. 827/1997 before this Bench of the Tribunal. The Tribunal vide its order dated 28.11.2002 directed the applicant to file an appeal. The applicant filed an appeal which was dismissed vide order dated 10.2.2003 (Annexure A-1). Aggrieved by these impugned orders the applicant has filed the present Original Application.

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 subsequently given the extra charge of Branch Post Master with effect from 4.5.1995 and the charge leveled against him was during the month of January and February, 1996 regarding the transactions of deposits made by him amounting to Rs. 1450/- in different RD/SB pass book accounts and not making the entries in the RD/SB journals/BO account and also failed to account for causing misappropriation of the amount by violating the relevant Rules. The applicant denied the charge but the enquiry officer did not conduct the enquiry according to the mandatory rules and due to the extra burden of work of BPM and lack of knowledge he could not deposit the amount in due time. The applicant deposited the whole questioned amount in the department. He further argued that the alleged confessional letter of the applicant Annexure A-9 dated 16.4.1997 is not at all related to the charge sheet (Annexure A-3) because in Annexure A-9 the date mentioned is 24.2.1997 while the date mentioned in the charge sheet is 20.2.1997. He further mentioned that the punishment awarded to him of removal from service is very harsh. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that regarding the alleged double duty of the applicant, he never made any complaint regarding it and in Annexure A-4 the applicant has admitted that he had committed the errors mentioned in Annexure A-3 because of lack of experience of work of Branch Post Master. He has also admitted that when these errors were detected and shown to him then he informed the Branch Post office. He has not done this act intentionally. The enquiry officer has acted as per the rules and vide Annexure A-7 he was appointed and was directed to conduct the enquiry and the first sitting was scheduled for 16.4.1997, wherein the charged officer as well as the presenting officer were called upon to proceed with the enquiry. The enquiry officer has not committed any irregularity and after holding the charge as proved as the applicant himself admitted the charge as per Annexure A-9 and also



signed it. He also expressed his desire that he did not want any more enquiry in this matter. Thus, the enquiry officer held that there is no need to proceed with the enquiry. The opportunity of hearing was given to him and also the necessary copies of the relevant documents were duly furnished to him. The charges leveled against the applicant are very serious in nature which can adversely affect the faith of the general public on the department of the respondents. Hence, he does not need any leniency at all. The action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that in Annexure A-9 dated 16.4.1997 the applicant has confessed, ^{on} the charge leveled against him and he ^{has} also made a request that he does not want any further enquiry in this matter. He has also mentioned that he is giving this statement without any pressure. So far as the date 24.2.1997 is concerned it seems to be not material to the date mentioned in the charge sheet dated 20.2.1997 (Annexure A-3) because the applicant has not shown us any other charge sheet issued against him except that issued on 20.2.1997. The applicant has deposited the alleged amount of Rs. 1450/- when his error was detected by the department and where shown to him, in the Tekampur Post Office. This fact apparently makes it clear that the applicant has not deposited the amount on due dates on which dates he received the amount and he entered these amounts in the pass books but did not deposited these amounts in the Government account. The concerned relevant documents were only the pass books which were in possession of the applicant himself as he was maintaining the records. The charge against the applicant is that he did not deposit the amount taken by him from the account holders in the Government account within the due time. Due opportunity of hearing was given to the applicant. The charges leveled against the applicant are proved and established. If such activities are allowed in the department of the respondents then the public at large will



loose its faith from the Department of the respondents. The charges leveled against the applicant are adversely affecting the integrity of the applicant. It is a settled legal proposition that the Courts/Tribunals cannot re-appraise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals. In this case the punishment imposed on the applicant of removal from service though is a severe most punishment but it does not shocks our conscience as the charge against the applicant is grave and serious.

7. Considering all the facts and circumstance of the case we are of the opinion that the applicant has failed to prove his case and this Original Application deserves to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
 Judicial Member


(M.P. Singh)
 Vice Chairman

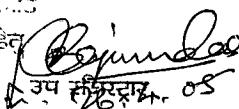
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पृष्ठांकन सं. ओ/वा..... अक्टूबर, १९.....

प्रिलियर नं. १००/१००/१००

(1) सचिव, राज्य विविध विभाग..... जनपदमुख
 (2) अधिकारी, विविध विभाग..... जनपदमुख श्री ब. कर्गायान, H.C. Secy.
 (3) प्रत्यक्षी विविध विभाग..... जनपदमुख श्री प. व. केल्ली, H.C. Secy
 (4) विधायक, राज्य विविध विभाग..... जनपदमुख

सूचना एवं आवश्यक कार्यकाली हेतु


 उप सचिव
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