

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT COURT SITTING AT INDORE

Original Application No. 676 of 2003

Indore, this the 11th day of January, 2005

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

Harsiddhi Prasad Shrivastava,
S/o. late Shri Biharilalji Shrivastava,
Ex. Postal Assistant, 81, Nilganga
Road, Ujjain - 456010.

... Applicant

(By Advocate - Shri S.S. Patwardhan)

V e r s u s

1. Union of India, through
Secretary, Department of Posts,
Ministry of Communications, Dak
Bhavan, Sansad Marg,
New Delhi - 110001.

2. Director Postal Services, Indore
Region, Office of the Postmaster
General, Indore Region, Indore.

3. Senior Superintendent of Post
Offices, Malwa Division,
Ujjain - 456010.

... Respondents

(By Advocate - Shri Umesh Gajankush)

O R D E R

By Madan Mohan, Judicial Member -

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

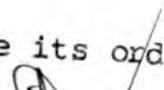
"(i) the punishment of removal given by the
respondent No. 3 vide Annexure A-1 be set aside and
the applicant be ordered to be reinstated with all
consequential benefits, such as pay, seniority etc.

(ii) the period of suspension be treated as on duty
for all purposes because the suspension was not
justified and warranted by the guide line issued by
the Department. The preliminary enquiries were already
conducted and all records were in the possession of
the respondents, there was no possibility of the
applicant tampering with the records or absconding
from duty and therefore, the suspension is not
justified and on account of non-payment of allowance
the entire action is illegal."

2. The brief facts of the case are that the applicant
had submitted an application for the post of Clerk in the



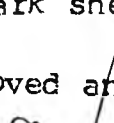
Postal Department on 9.10.1978 alongwith the true copy of the mark list of Higher Secondary School Certificate examination. By letter dated 7.6.1979 the applicant was informed that he was selected for appointment as Time Scale Clerk (Annexure A-2). On obtaining the willingness from the applicant, the respondent No. 3 had further called for certain documents including the original mark sheet vide letter dated 17.6.79. The applicant attended the office of the respondents on 20.6.1979 and submitted all the required documents including the original mark list. The applicant was informed about his final selection and was directed to undergo theoretical training. After successful completion of the theoretical training and 15 days practical training, the applicant joined at Mahidpur Sub Post Office on 11.3.1980. The respondent No. 3 has issued confirmation orders of the applicant and provided lien of Postal Assistant, Ujjain Head Post Office w.e.f. 1.3.1983 vide memo dated 27.9.1984. Thereafter, the respondent No. 3 had issued arbitrary order placing the applicant under suspension vide memo dated 11.2.1986. He further issued a vague charge sheet under Rule 14 of the CCS (CCA) Rules, 1965 dated 29.8.1986. The enquiry officer had completed the enquiry without following the prescribed procedure and without giving the applicant the reasonable opportunity to defend his case by not supplying the copies of the relevant documents. He submitted his report on 14.7.87 holding the applicant guilty of submitting copy of bogus mark list at the time of applying for getting appointment as Postal Assistant. On the basis of the enquiry report the final order of removal from service of the applicant was passed. The applicant filed an appeal which was dismissed. Thereafter the applicant filed a revision petition which was also dismissed. Hence, the applicant had filed OA No. 578/93, in which the Tribunal vide its order dated 10.4.2002 has



has quashed the punishment order of removal from service and remitted back the case to the disciplinary authority to dispose of the departmental enquiry against the applicant in accordance with law and as per the direction given in that order. Thereafter the respondents served a show cause notice dated 11.9.2002. The ^{applicant} ~~replied~~ against this notice and vide order dated 16.12.2002 the applicant was served with an order of punishment of removal from service. Further the applicant submitted an appeal which was rejected vide order dated 17.7.2003 (Annexure A-26). Hence, the present Original Application is filed.


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

4. It is argued on behalf of the applicant that after thorough enquiry the enquiry officer has exonerated the applicant from the charges levelled against him. The applicant has not filed any false mark sheet. The earlier order passed by the respondents was set aside by the Tribunal vide its order dated 10.4.2002 passed in OA No. 578/1993 and the matter was remanded back to the disciplinary authority to dispose of the departmental enquiry in accordance with rules. But the respondents have again passed the similar orders which are not speaking and reasoned orders. The applicant made sincere efforts to obtain the original mark sheet from the office of the Board of Secondary Education, Madhya Pradesh, Bhopal. He also filed a writ petition ^{No. 235/2000} before the Hon'ble High Court. The Hon'ble High Court vide order dated 14.2.2000 directed the Board of Secondary Education, MP, Bhopal to supply the applicant a duplicate mark sheet. But even then the duplicate mark sheet was not issued. Hence, he could not file the mark sheet. The charge levelled against the applicant is not proved and the punishment awarded to the



applicant of removal from service is too harsh. Accordingly, the Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that the applicant was selected as Postal Asstt. in in Malwa Division, Ujjain vide letter dated 4.6.79. He submitted all the documents as desired except the original HSSC examination mark list. He was appointed as Postal A-ssistant vide office memo dated 27.10.1980 with effect from 17.5.1980. Meanwhile a complaint was received against the applicant that he had managed his recruitment on bogus mark list. As per letter dated 29.1.1985 from the Asstt. Secretary, Madhyamik Shiksha Mandal, Bhopal, it was revealed that the true copy of the mark list produced by the applicant at the time of his recruitment was bogus. An enquiry was initiated and the applicant was placed under suspension. Thereafter the order of removal from service was passed against the applicant. The appeal and revision of the applicant was dismissed. Aggrieved by this the applicant preferred an Original Application No. 578/1993 and the Tribunal vide its order dated 10.4.2002 set aside the punishment order and remanded back the case to the disciplinary authority to dispose of the departmental enquiry in accordance with rules. In compliance of the order of the Tribunal the applicant was issued a show cause notice dated 11.9.2002. The applicant by his application dated 30.9.2002 demanded another copy of the enquiry report as the copies supplied to him was faint. Duly attested copy of the report was supplied to him but he refused to take it. Thereafter, the order of removal was passed against the applicant. He preferred an appeal which was also dismissed vide order dated 17.7.2003. The learned counsel for the respondents have drawn our attention towards Annexure R-4 dated 29.1.1986 issued from the office of the Secretary,

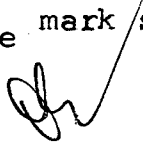


Board of Secondary Education, MP, Bhopal, in which it is mentioned that the mark list submitted by the applicant is bogus. The respondents further argued that the enquiry officer has mentioned in his report, clearly that the charge of Annexure-I is fully proved. The charge of Annexure-I is regarding submission of bogus mark sheet by the applicant. This is not a case of no evidence. Due opportunity of hearing was given to the applicant and the impugned orders are passed by the authorities concerned after considering the contentions of the applicant and the punishment awarded to the applicant is not harsh as he secured employment on the basis of bogus mark sheet. Such type of person does not deserves any leniency. Hence, the respondents have not committed any irregularity or illegality while passing the impugned orders.

6. After hearing the learned counsel for the parties and on careful perusal of the records and pleadings, we find that according to the report of the enquiry officer himself he has clearly mentioned that on perusal of the documents and statements of witnesses recorded by him during the enquiry, the charge levelled against the applicant in Annexure-1 is fully proved. We have perused Annexure-I and the relevant portion is extracted below :

"Shri Harsidhi Prasad Shrivastava alongwith his application for recruitment dated 9.10.'78 and 18.6.79, submitted copy of marksheet of Higher Secondary School Examination 1977 indicating Roll No. 050515 as belonging to him. He, on the basis of the above mark sheet succeeded in getting the appointment in the department as P.A. Malwa Dn. He was asked several times to submit the original mark sheet for verification but he avoided to produce the original mark sheet for verification and continued to remain in the department. On enquiry the Asstt. Secretary, Board of Higher Secondary School Examination, M.P. Bhopal reported that no such Roll No. cited above was allotted to Centre No. 220 and the mark sheet is reported to be bogus.

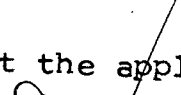
It is, therefore, imputed that Shri Harsidhi Prasad Shrivastava, in order to get the employment in the department submitted a copy of the mark sheet of Higher Secondary Examination of 1977 which is not a copy of the genuine mark sheet. He has thus acted in



contravention to the provision of Rule 3(1)(i) and 3(1)(iii) of CCS Conduct Rules, 1964."

Thus we find that the argument advanced on behalf of the applicant that the enquiry officer has exonerated the applicant from the charges, seems to be not correct. We have also perused Annexure R-4 dated 29.1.1986 issued from the office of the Secretary, Board of Secondary Education, M.P. Bhopal in which it is clearly mentioned that ~~roll~~[✓] number 050515 was not allotted to the examination centre No. 220. It was also mentioned that the alleged mark sheet shows that the applicant has passed in first division but the official records shows that the candidate of this roll number had not secured first division. The photo copy of the mark sheet of the applicant was handwritten, while no/mark list was issued from the office of the Board of Secondary Education in that year of 1977 and all the mark sheets issued in that year were issued through data print process. The applicant could not file his original mark sheet in the office of the respondents so far and the questioned mark sheet which was filed by the applicant was proved to be bogus. We also find that due opportunity of hearing was given to the applicant and the applicant has secured his appointment in the Department of the respondents by submitting bogus mark sheet, which is a very serious charge in its nature. The punishment awarded to the applicant does not seems to be harsh and it does not shocks our conscience. We have perused the impugned orders passed by the disciplinary authority and the appellate authority and we find that they are well discussed, speaking and reasoned orders. 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 opinion that the applicant has failed to prove



his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed with no order as to costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

"SA"

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

पलिलिपि अवेधित:-

- (1) सचिव, उच्च न्यायालय नगर एडमिनिस्ट्रेशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) बंधपत्र, कोर्ट, जबलपुर न्यायाधीश सचिवालय एवं आवश्यक कार्यवाही हेतु

S.S. Patwari Singh Dru
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Dru

उप सचिव

Issued
on 19.01.05
R.R.