

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING HELD AT INDORE

Original Application No. 829 of 2003

Bilaspur, this 3rd day of February, 2005

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

Ashok Kumar Madhukar Kulkarni,
aged about 38 years, S/o. Madhukar
Tukaram Kulkarni, R/o. Newali Teh.
Bewali Distt. Badwani, M.P.

... Applicant

(By Advocate - None)

V e r s u s

1. Union of India, through Secretary,
Deptt. of Posts and Telegram,
New Delhi.
2. Director, Postal General,
Indore.
3. The Post Master General,
Posts and Telegraph Deptt.
Indore.
4. The Senior Supdt. of Post Offices,
Khandwa M.P.

... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member -

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

"(i) to quash the enquiry report Annexure A-1,
further to quash the order of punishment dated 4.3.02
Annexure A-2 order of appellate authority Annexure A-3,
dated 29.11.2002 and order passed by the Director
Postal General dated 8.9.2003 Annexure A-4,

(ii) to direct to reinstate the applicant on his post
with all consequential benefits."


2. The brief facts of the case are that the applicant was
an employee of Post Department. He faced a departmental
enquiry on the ground that on 14.11.1996 he received certain
amounts but deposited in the Post Office belatedly. An
enquiry officer was appointed to conduct the enquiry. The
applicant submitted his reply. The witnesses were examined



before the enquiry officer but they did not support the case of the respondents. The pass books of such deposits from which it can be seen that the real date of receiving the amount and the date of deposit was withheld by the prosecution purposely. The enquiry officer did not conduct the enquiry according to the rules and proper opportunity was not given to the applicant to defend his case. After recording the evidence the enquiry officer came to the conclusion that the charges against the applicant are partly proved and he sent the enquiry report for appropriate punishment to the disciplinary authority. The disciplinary authority agreed with the enquiry report and passed the order of removal from service on the applicant. Aggrieved by this the applicant has filed the appeal which was dismissed vide order dated 29.11.2002. Thereafter, he preferred a review petition which was also dismissed. Aggrieved by this the applicant has filed the present Original Application.

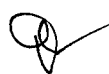
3. None for the applicant. Since it is an old case of 2003, we proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents and perused the pleadings and records.

4. It is argued on behalf of the respondents that during the period from 14.11.1996 to 13.5.1997, the applicant received sums from various depositors of RD Accounts and issued them the counter slip under his signatures and put the seal of the Department on it and returned the counter slip to the depositors. The said amount was not deposited on the same day in the department's account and the same was deposited after some days. In this way the applicant received sums of RD accounts to the tune of Rs. 25,585.50 paise and utilized the same for his own purpose, thereby violating the provisions of Rule 106 of PO SB Manual Volume Part I Section-II and also the Rules 98 and 99 of Part III of Vol. VI of the Dak Niyam



Pustak (Postal Manual Vol) and also Rule 17 of ED Conduct Rules, 1964 read with Rule 21 of GDS (Conduct & Employment) Rule, 2001. The details of the amounts which have been utilized by the applicant for his private use and thereafter deposited in the Govt. account is given in para 4 of the reply filed by the respondents. The charges against the applicant are fully proved and the charges are very serious in nature as he has utilized the public money for his personal use. Due opportunity of hearing was given to the applicant and the authorities concerned while passing the impugned orders have not committed any irregularity or illegality. The action of the respondents is perfectly legal and justified. Hence, the OA deserves to be dismissed.

5. After hearing the learned counsel for the respondents and on careful perusal of the pleadings and records, we find that the charges against the applicant were partly proved as the applicant had received certain amounts from the depositors and belatedly deposited these amounts in the Govt. account. He used these amounts for his personal use for certain periods. This act was done by the applicant during the period from 14.11.1996 to 13.5.1997 i.e. for about a period of six months and misused an amount of Rs. 25,585.50. The respondents have given the details about it in their reply at paragraph 4. Legally the applicant was bound to deposit the amount received from the depositors on the same day in the Govt. account but paragraph 4 of the return shows that the applicant deposited these amounts belatedly. Thus, for certain days the applicant has utilised these amounts for his personal use. The enquiry officer has submitted his report partly proving the charges but as the matter relates to the documents and the respondents have given all the particulars and details of the date of receipt and deposit in their return, the charges against the applicant need not required any oral evidence. The applicant has also not controverted the facts mentioned in the return



by filing any rejoinder. Due opportunity of hearing was given to the applicant. The charges levelled against the applicant were serious in nature as it amounts to mis-appropriation and conversion of public money to private for a certain period which is not at all permissible under any rule or law. We have perused the impugned orders passed by the disciplinary authority dated 4.3.2002, appellate order dated 29.11.2002 and revisional order dated 8.9.2003. These orders are very ^{and} speaking/having sound reasons. The punishment awarded to the applicant does not seem to be harsh and it does not shock our conscience. It is a settled legal proposition that the courts/Tribunals cannot reapp^arise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals.

6. Considering all 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. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठांकन सं. ओ/जग.....जबलपुर, दि.....

प्रतिलिपि : मन्त्रालय :-

- (1) सचिव, उच्च न्यायालय, सुप्रीम कोर्ट, नया दिल्ली
(2) आवेदक श्री/श्रीमती/श्रीमान के काउंसल
(3) प्रत्यक्ष श्री/श्रीमती/श्रीमान के काउंसल
(4) बंधु/बन्धु, श्रीमान, नया दिल्ली व जयपुर
सबका एक आवेदनक कार्यवाही हेतु

सूचना एवं आवश्यक वर्गीकरण हेतु
उप रजिस्ट्रार

"SA"

Issued
On 10.2.05
BS