

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

Circuit Sitting : BILASPUR

Original Application No.224/2002

Bilaspur, this the 11th day of December, 2003

Hon'ble Shri M. P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Yashwant Kumar Chandrakar
s/o Shri Dhani Ram Chandrakar
Ex. ED BPM
Kauli (Kharora), Thana:Kharora
Tahsil/Distt.: Raipur(C.G). ... Applicant

(By Advocate: Shri S.T.H.Rizvi)

Versus

1. Union of India
through Secretary
Ministry of Communication
Dept. of Posts
NEW DELHI.
2. The Chief Postmaster General
Chhattisgarh Circle
Raipur (CG).
3. The Director Postal Services
O/o The Chief P.M.G., C.G.Circle
Raipur.
4. The Sr. Supdt. of Post Offices
Raipur Division, Raipur
5. The Sub Divisional Inspector (P)
Dhamtari Sub Division, Dhamtari
& Enquiry Officer. ... Respondents

(By Advocate: Shri S.P.Singh)

O R D E R (Oral)

By G. SHANTHAPPA, Judicial Member:

The above case is filed seeking the
following reliefs:

"(i) The impugned orders of the disciplinary
authority cited at Annexure A/3 and the
appellate authority at Ann. A/2 and
the revisionary authority at Ann. A/1,
which are against the rules of the
department and principles of natural
justice as shown above may kindly be
quashed.

(ii) Respondent No.2, i.e., Chief P.M.G., Raipur
may kindly be directed to reinstate the
applicant and for De novo enquiry."

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2. The brief facts of the case of the applicant are that the applicant was working as ED Branch Post Master in Khauli Branch Post Office since 5.1.1978. While he was working as ED Branch Postmaster, a chargesheet was served under Rule-8 of the EDA's (Conduct & Service) Rules, 1964 against the applicant alleging that the applicant was absent from duty from 1.7.1995 to 19.11.1996 on different dates without permission and obtained payment of allowances while the work of the ED BPPM was done by one Shri Bhojraj Chandrakar. Further, under Article-II, it was charged that the applicant delayed relief of Shri Tijau Ram Nirmalkar EDMC/DA Khauli who was promoted as Group 'D', and last was that the applicant refused to handover the branch office records to Shri Dukalu Ram Sahu, Mail overseer, Raipur on demand. An inquiry officer was appointed and the inquiry was conducted. It is stated by the applicant that the inquiry officer who was enquired into the matter was bias and ignorant of disciplinary rules and procedure hence proper procedure was not followed and his findings were unjust and infirmities were too many resulting into violation of Article 311(2) of the Constitution.

3. It is stated by the applicant that on the basis of the inquiry report, the disciplinary authority, appellate authority and even revisional authority were not sincere and failed totally in making objective assessments of the findings of the lower authorities. It is also stated that the impugned order of punishment is illegal and also disproportionate to the charges levelled against the applicant. As such the applicant states that the aforesaid impugned orders be ^{be} liable to quashed and set-aside.

4. It is further stated that the appellate authority has not followed the procedure of Rule 14(14) (15) and (16) of CCS (CCA) Rules, 1965 extracted from Swamy's Compilation, 24th Edn. 1999
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Page 39 in Annexure A-9, 10/and 12 of the OA.

5. It is further stated that the appellate authority has to consider all the grounds in accordance & Service with the Rule 15 of the EDA (Conduct/)Rules, 1964 which is extracted in Annexure A/15 of the OA. Hence the appellate authority has not consider all the grounds and has passed the illegal order without assigning proper reasons. Hence the said order of the appellate authority is liable to be quashed. It is further stated that even the revisional authority has also not considered the case of the applicant hence the orders passed by the disciplinary, appellate and revisional authorities are liable to be quashed and set-aside. It is further stated that punishment imposed against the applicant is disproportionate and to the charges levelled against the applicant. This aspect has also not been considered by all the authorities. Hence the present OA, seeking the aforementioned reliefs.

6. Per contra, the respondents have filed a detailed reply contending that the charges levelled against the applicant are proved. An opportunity was given to the ~~applicant~~ applicant to examine the witnesses and also cross-examine the witnesses. The documents are supplied to the applicant. The applicant did not ^arise any objection in the inquiry. ^{rep.} The inquiry officer has followed the rules and after completion of the inquiry he has submitted his report ^{rep.} finding that the applicant himself

has admitted the charges. Accordingly, he has submitted his inquiry report vide Annexure A-7. After perusal of the inquiry report, the disciplinary authority has exercised his powers and imposed the punishment. While issuing the order by the disciplinary authority, he has considered all the aspects of the case and also ~~eg.~~ proving the charge against the applicant. There is no illegality or irregularity while passing the impugned order. The authority who has issued the impugned order of dismissal from service is the competent authority, there is no error of jurisdiction.

7. The appellate authority has also confirmed the order of disciplinary authority by assigning all the reasons on the basis of records, the appellate authority has also dealt with the case of the applicant on the basis of the records submitted by the applicant. On going through the orders of the appellate authority and the revisional authority there is no illegality or irregularities committed by the authorities. The necessary principles of natural justice was provided to the applicant in the inquiry proceedings as well as in the subsequent proceedings. It is further stated by the respondents that this Tribunal should not interfere in respect of the quantum of the punishment imposed by the authorities. Hence, the respondents stated that the CA is liable to be dismissed.

8. Subsequent to the filing of the reply, the applicant has submitted his rejoinder. In the

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rejoinder, no further clarification has been made in pursuance to the reply. The applicant has reiterated the pleas taken in the OA. However, he has relied on the judgement of the Principal Bench in CA No.600/PB of 1990 decided on 6.6.1997 and stated that his case is squarely covered by the aforesaid Judgement.

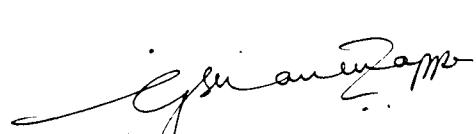
9. We have heard the learned counsel for the applicant and the learned counsel for the respondents. We have perused the material/pleadings on record. We proceed to dispose of the OA finally.

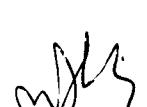
10. The admitted facts are that the applicant was unauthorised absence from 1.7.1995 to 19.11.1996 on different dates without permission and obtained payment of allowances during the said period and he has also refused to handover the records to Shri Dukalu Ram Sahu, Mai overseer, Raipur. The applicant has submitted his objections to the charge, he was participated in the proceedings, he did not object in the inquiry proceedings, ample opportunities were given to the applicant to examine his witnesses and also cross-examine the ~~op~~ defence witnesses. After concluding the inquiry the inquiry officer ~~of the inquiry officer~~ has submitted his report to the disciplinary authority and a copy of the inquiry report was also given to the applicant and after ~~receiving~~ ^{submitting} the reply to the inquiry report, the disciplinary authority has exercised his powers by imposing the penalty of dismissal from service, after assigning the detailed reasons, Appellate authority has also considered the case of the applicant confirming the order of the disciplinary authority while dismissing the appeal, he has assigned the

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reasons for dismissal of the appeal. The applicant did not raise his objections before the appellate authority either for factual errors or for quantum of punishment. Hence the appellate authority has passed the considered/reasoned order. The revisional authority has also passed the considered and reasoned order on the basis of the records available before him. In our considered view, all the authorities have considered the case in detail and passed a reasoned/speaking orders and there is no principles of natural justice is violated. The judgement relied by the applicant in OA600/PB/90 is not covered the present case.

11. In our considered view, this Tribunal cannot go into the factual defects as it is not a fact finding authority to look into the factual defects in the inquiry proceedings. Regarding quantum of punishment, this Tribunal has no jurisdiction to interfere with the powers exercised by the competent authority. If there is any procedural irregularities, then only this Tribunal can interfere. As no such irregularities/illegalities are committed by the authorities, the applicant has failed to prove his case. Accordingly, the OA is dismissed. No costs.

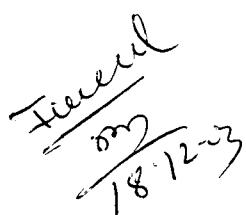

(G. SHANTHAPPA)
Judicial Member


(M. P. SINGH)
Vice Chairman

/re/o/ फूलकल सं लोगो... वारकर, फि...
1. अधिकारी, विवाह संस्था
2. अधिकारी, विवाह संस्था
3. अधिकारी, विवाह संस्था
4. अधिकारी, विवाह संस्था

STH Rizvi, Adv.
SP Singh, Adv.


Reprimand


T. S. Raghav
18/12/03