

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 437 of 2002

Jabalpur, this the 29th day of July, 2004

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

Paras Ram Sahu, S/o. Shri
Shukhu Ram Sahu, aged about 32
years, Employed as Ex. E.D.B. Post
Master, Resident at : Village : Pendri
(Birra), Post : Pendri, Via : Birra,
Distt : Janjgir - Champa,
Pin code : 595661 (Chhattisgarh).

... Applicant

(By Advocate - Shri B.P. Rao)

V e r s u s

1. Union of India,
through : The Secretary,
Department of Posts,
Ministry of Communication,
Sanchar Bhawan, New Delhi.
2. The Chief Post Master General,
Chhattisgarh Circle,
Office of Post Master General,
Chhattisgarh Circle, Raipur.
3. The Director, Postal Services,
Post Master General Office,
Raipur Region, Raipur (CG).
4. The Superintendent of Post Offices,
Bilaspur Division,
Bilaspur - 495001.

... Respondents

(By Advocate - Shri K.N. Pethia)

O R D E R

By Madan Mohan, Judicial Member -

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


8.1. to quash the impugned punishment order No.
F5/Misc/01/92-93/181 passed by respondent No. 4, on
31.5.2000/6.6.2000 (Annexure A-24),

8.2. to set aside the reviewing authority memo No.
STA/3-4/EDPT/01 dated 31.10.2001 (Annexure A-29),


8.3. to direct the respondents to reinstate the
applicant with all back wages from the date of passing
the punishment order, by treating the entire period from
the date of punishment to the date of decision of the
application by this Hon'ble Tribunal, by treating the
entire period of absence as period spent on duty."



2. The brief facts of the case are that the applicant was appointed as EDBPM, Pendri on 6.1.1987. On 22.7.1992, the applicant while he was discharging his normal duties, received various Money orders for payments including one MO for Rs. 550/- sent by Shri Pyrelal Chowan in favour of his wife Smt. Syamabai, vide MO No. 31. The applicant searched the said addressee at the given address, but he found that the addressee left her village for some time, then at the request and on insisting by one of the near relative of the addressee, named Mr. Babulal Chowhan, paid the said Money Order amount to him in good faith and belief that the said amount will be paid by him safely to the addressee, in the presence of the independent witness named Mr. Puniram Kewat. Thereafter the addressee lodged a complaint to the postal authorities regarding non payment of money order amount, the applicant soon after knowing this fact, without waiting for the so called relative of the addressee, accepting his guilt of non-payment of money order amount to the actual addressee, immediately collected the amount from the said relative and remitted to the department on 12.10.1992, which was in turn paid to actual addressee on 5.8.1993, as such, no loss to neither the addressee of the Money order or to the Department. But the respondents issued a charge sheet on 25.2.1994, alleging that the applicant did not paid the said money order amounting of Rs. 500/- to the actual addressee and forgoing her signature and also obtained witness signature and misappropriated the said amount, as applicant himself admitted vide his application dated 13.11.1992. The applicant submitted his explanation to the said charge sheet. Initially Shri R.S. Koushal was appointed as enquiry officer. A preliminary enquiry was held on 31.1.1995, thereafter the enquiry officer was transferred and Shri D.P.




Yadav was appointed as Enquiry Officer to continue the said enquiry. The enquiry officer cunningly misguided the applicant, as such, looking to the slow process of the departmental enquiry and on being blind faith on the enquiry officer, applicant submitted an application accepting his guilt and prayed for condonation and stoppage of further enquiry and allowed him for rendering continuous service with the Department. The enquiry officer submitted his report on 7.12.1995 by holding that the charges are proved, against the applicant as the applicant himself accepted his guilt vide his application dated 4.12.1995. The applicant submitted his representation against the enquiry Officer's report. The disciplinary authority thereafter imposed an extreme punishment of dismissal from service on the applicant with immediate effect. The applicant preferred an appeal against this order of the disciplinary authority and the appellate authority after considering all the facts of the appeal ordered for ~~denovo~~ proceedings. The enquiry officer biased and prejudiced with the applicant, started the enquiry with biased mind and with intention to ham the applicant, conducted the departmental enquiry during the absence of the applicant's defence representative. The applicant was denied the opportunity of cross-examination of the prosecution witnesses. The applicant submitted a complaint against the enquiry officer. But it was turned down. The enquiry officer even after receipt of the applicant's defence brief, with an intention to ham the applicant, submitted his report with back dated i.e. 14.2.2000. The applicant submitted his representation against it. The disciplinary authority, thereafter imposed the punishment of removal from service with immediate effect on the applicant. The applicant preferred an appeal against the



order of the disciplinary authority. The appellate authority also rejected the appeal of the applicant. Aggrieved by this the applicant has filed this OA claiming the aforesaid reliefs.


3. We have perused the written arguments submitted on behalf of the parties.

4. It is stated on behalf of the applicant that the applicant has not committed any fault. He searched the actual addressee on the given address but found that she left the place for some time. Then on the request of her close relative Mr. Babulal Chowhan the amount was paid to him in good faith and belief that the said amount will be paid by him safely to the addressee but he failed to hand over the said amount to the addressee. When Smt. Syamabai lodged a complaint to the Postal authorities that she had not received the money order, the applicant immediately got this money from Mr. Babulal Chowhan and deposited with the Department which was actually paid to the addressee Smt. Syamabai on 5.8.1993. The applicant has never admitted his guilt and he has not caused any loss to the Department and actual payment of the Money order of Rs. 500/- was also paid to the actual addressee. The enquiry officer was biased but inspite of several complaints made against him, he submitted his report against the applicant and on the basis of it the disciplinary authority passed the punishment of dismissal from service. The appellate authority while considering the appeal of the applicant found that the applicant has not actually accepted the guilt un-conditionally but he accepted the guilt on certain conditions. Hence, the appellate authority cancelled the entire punishment order and by giving reasonable opportunity




to the applicant ordered for *denovo* proceedings. Such orders should not have been legally passed by the appellate authority. Our attention is drawn towards the judgment of the Hyderabad Bench of the Tribunal in the case of J. Shyam Dev Vs. Union of India, passed in OA No. 720/1989, decided on 23.11.1989, in which it is held that appellate authority set aside the punishment order remitted back the case to disciplinary authority - *denovo* enquiry ordered - challenged - after setting aside punishment orders, *de novo* enquiry illegal - Validity. Thereafter again the enquiry officer submitted the enquiry report to the disciplinary authority and the disciplinary authority passed the punishment of removal from service. The appellate authority in turn rejected the appeal of the applicant. No opportunity of hearing was given to him and further stated that the punishment awarded is very harsh.

5. In reply the learned counsel for the respondents stated that ~~the~~ applicant mis-appropriated with the Government money by putting the forged signature of its payee. This fact has also been accepted by the applicant vide his statement dated 13.11.1992. The applicant was suitably punished taking into consideration all the facts established against him as a result of Departmental enquiry in which all the reasonable opportunity was given to the applicant. The applicant himself admitted the charges framed against him in writing in presence of his defence Assistant during the departmental enquiry on 4.12.1995. No application for production of documents etc. was submitted by the applicant. The applicant complained against the enquiry officer regarding biasness in his letter dated 8.4.1998 for which he is not competent. The order passed by the appellate authority for *denovo* proceedings was



strictly legal and justified. The ruling cited by the learned counsel for the applicant does not apply to this case as the facts are not similar. In this present OA the disciplinary authority has passed the punishment order on the basis of the admission of the guilt of the applicant and in the ruling it was ordered cited by the applicant regarding denovo proceedings, /from the stage of cross examination of prosecution witness and cross-examination of documents. The charge against the applicant is serious in nature and amounts to moral turpitude which adversely effect the integrity of the Department of the respondents on whom the public at large has faith. Due opportunity of hearing was given to the applicant. The orders passed by the authorities concerned are speaking orders and the punishment awarded on the applicant is not harsh.

6. After giving careful consideration to the written submission made on behalf of the parties, we find that the applicant himself has mentioned in his OA that the said near relative of the addressee to whom the applicant had paid the amount of the money order in good faith had not handed over the amount of the money order to the actual addressee. When the actual addressee lodged a complaint to the Postal authorities, regarding non-payment of the amount of money order, the applicant without waiting for the so called relative of the addressee, accepted his guilt for non-payment of the amount of the money order to the actual addressee and remitted the amount to the Department which in turn was drawn to the actual addressee. In this regard the argument advanced on behalf of the respondents that the applicant misappropriated with the said amount by putting forged signature, seems to be correct. So far as the order passed by the appellate authority for denovo proceedings, there is no irregularity or illegality committed by the appellate



authority while passing this order of denovo proceedings, as the appellate authority took a view that the admission of the applicant is not unconditional. Therefore, a detailed enquiry was conducted and the charge against the applicant was proved and established. Thereafter, the impugned orders were passed by the authorities. The charge against the applicant is very serious in nature. It amounts to moral turpitude as the Postal Department on whom the public at large have trust and faith and deposits their money and if any employee mis-appropriates with this money, then he should be dealt with iron hands, otherwise the public would loose its faith on the Department of the respondents. We have perused the orders passed by the authorities and we find that all orders are speaking, detailed and reasoned orders. This is not a case of no evidence. 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 Tribunals/Courts.

7. Considering the overall facts and circumstances of the case, we are of the opinion that the applicant has failed to prove his case and the 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

"SA"

पृष्ठानक सं ओ/न्या. जबलपुर, दि.
पृष्ठानक सं ओ/न्या. अवेदित :-

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु. के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु. के काउंसल
- (4) अध्यक्ष, को.प्र.अ., जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु

रजिस्ट्रार

3-8-09

KN Peltia, Adv.

Issued
on 9.8.09
PS