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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT AT INDORE (M.P.)

Original Application No. 697 of 2001

Indore, this the 13th day of November, 2003

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

B.B. Dohare, S/o. Shri R.K. Dohare,
aged 54 years, Supervisor, R/o
P-1, P&T Colony, Kasturba Nagar,
Ratlam (M.P.).

... Applicant

(By Advocate - None)

V e r s u s

Union of India, through :

1. The Secretary, Department of
Posts, Ministry of Communication
Sansad Marg, New Delhi.
2. Chief Post Master General,
M.P. Circle, Bhopal.
3. Post Master General,
Indore Region Indore.
4. The Superintendent of Post Office,
G.P.O. Ratlam.
5. Mr. Ahmed Ali, S/o. Shri Ahasan
Ali, aged 55 years, P.M.G. Office,
Indore MP.

... Respondents

(By Advocate - Smt. S.R. Waghmare)

O R D E R (Oral)

By G. Shanthappa, Judicial Member -

The above Original Application is filed seeking the relief to quash the impugned orders at Annexure A-1, Annexure A-2 and Annexure A-3 and further relief to release all the increments which was stopped with interest at the rate of 18% per annum alongwith the arrears.

2. The case of the applicant is that the applicant was working as Supervisor in S.B.C.O. (Saving Bank Control Organisation). He was promoted from the post of UDC to the post of Supervisor on 19.09.1984. The nature of his job was

supervision and auditing accounts of S.B. and other deposits and locate irregularities and fraud in the said Department.

3. While he was in service he had submitted medical bills for Rs. 100/- for the treatment of his son Shri Natendra and a medical bill of Rs. 102.80 paisa for the treatment of his second son Shri Pramod and also third bill of Rs. 564/- and Rs. 353/- for his treatment. The treatment was taken from the Government Doctor Shri Pankaj Sharma. The respondents found that the said medical bills were bogus bills. Hence they have initiated departmental proceedings vide issuing the charge sheet. The applicant has submitted his reply to the charges stating that the applicant had taken the treatment with the Government Doctor and the medical bills submitted by him are genuine. Hence the charges levelled against him may kindly be dropped and the medical bills submitted by him may kindly be sanctioned under the medical attendance rules. The advocate for the applicant submits that alongwith the charge sheet all the necessary documents were supplied.

4. The case of the applicant is that without conducting the enquiry by appointing ~~any~~ ^{an} enquiry officer the disciplinary authority has taken the decision which is against the rules. The disciplinary authority has taken the decision without obtaining the enquiry report. As per Annexure A-1 the disciplinary authority has considered the case of the applicant and issued the order of punishment. The disciplinary authority has exercised his powers under Rule 11 of the CCS(CCA) Rules, 1965. The order of the disciplinary authority is as follows :

gk

" मैं, अहमद अली अधीक्षक डाकघर रतलाम संभाग केन्द्रीय सिविल सेवार्स
§वर्गीकरण नियंत्रण एवं अपील§ नियमावली 1965 के नियम 11 द्वारा
पुद्गल शक्तियों का उपयोग करते हुए आदेश देता हूँ कि श्री बी.बी.
दोहरे सुपरवाइजर एस.बी.सी.ओ. रतलाम एसओ की अगली वेतन
वृद्धि बिना संघर्षी प्रभाव के दो वर्ष छः माह के लिए रोकी जावे ।
यह दण्ड पूर्व में आदेशित दण्ड के पूरा होने पर लागू होगा । "

Against the disciplinary authorities order the applicant
has submitted his appeal to the appellate authority. The
appellate authority has reduced the penalty and has passed
the following order :

"उपरोक्त विवेचना से स्पष्ट है कि याचिकाकर्ता के विरुद्ध लगाये गये
आरोप स्पष्ट है एवं सिद्ध पाये गये हैं किन्तु उनकी लम्बी सेवाअवधि
को ध्यान में रख नरम रुख अपनाते हुए, अधीक्षक डाकघर रतलाम के ज्ञा.
क्र. एससी 5-37/एम.आर, दिनांक 31.3.99 के तहत पारित दण्डादेश एक
वेतन वृद्धि बिना संघर्षी प्रभाव के दो वर्ष छः माह के लिए रोके जाने के
दण्डादेश की एक वेतन वृद्धि बिना संघर्षी प्रभाव के एक वर्ष के लिये रोके
जाने के आदेश में परिवर्तित करता हूँ । "

5. The applicant has filed a revision petition before the
revisional authority as per Annexure A-7 challenging the
order of the disciplinary authority and the appellate
authority on the ground that there is no justification in
misleading disciplinary proceedings against him by treating
all the four medical bills as bogus. Accordingly the
impugned orders of the appellate authority and the
disciplinary authority are illegal. The same are liable to
be quashed.

6. Admittedly the disciplinary authority has imposed the
penalty by withholding of one increment of pay for two
years six months without cumulative effect. He has powers
to impose the penalty and which is a minor penalty. The
case of the applicant is that the punishment imposed by the
disciplinary authority is major one and also without
conducting the departmental enquiry. Hence the disciplinary
authority has no jurisdiction to impose the penalty and on
these grounds the impugned order is liable to be set aside.

The appellate authority has also not considered the case of the applicant and revisional authority also rejected the revision petition vide Annexure A-3, which are also illegal.

7. The respondents have filed their reply denying the allegations and averments made in the application. The specific case of the respondents are that the medical bills submitted by the applicant are bogus. The Doctor who had treated the sons of the applicant and the applicant on the date had already been transferred and he was not working at the place ^{where} ~~were~~ the medical prescriptions have been issued. This fact has been obtained from the officer of the hospital, ^{where} ~~were~~ the medical prescriptions were issued. The respondents further contended that the punishment which was imposed by the disciplinary authority is a minor penalty, enquiry regarding the charges is not required and the decision taken by the disciplinary authority is appropriate. Hence the principles of natural justice are not violated. The disciplinary authority had passed a considered and reasonable order. Before passing the order an opportunity was given to the applicant and he had submitted his representation. After submitting his objection the authority has passed the order. The appellate authority has considered the appeal submitted by the applicant and the appellate authority authority has shown a lineant view and reduced the penalty of 2 years 6 months to withholding of increment of pay for one year. On the revision petition the revisional authority has considered all the aspects and passed the impugned order rejecting the revision petition. When the respondents have not violated the principles of natural justice the relief of the applicant shall not be granted. The respondents have


supported ~~that~~^{the} the action taken by the authorities. Hence they have requested for rejection of the OA.

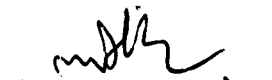
8. We have heard the learned advocate for the respondents as none was present for the applicant. We have perused the pleadings and the documents on record and decided the case on merits and on the ground that whether the respondents have properly considered the case of the applicant without conducting the enquiry ? and whether the enquiry is mandatory against the minor punishment imposed on the applicant ?

9. We perused the relevant rule i.e. Rule 14 of the CCS (CCA) Rules and we find that the punishment imposed against the applicant by the disciplinary authority is a minor penalty. The disciplinary authority has got powers to impose the minor penalty without appointing the enquiry officer and also without the enquiry report. Before passing the impugned order by the appointing authority an opportunity was given to the applicant and the applicant has submitted his objections. Hence the principles of natural justice are followed. When the applicant was heard before passing the order at this stage the applicant cannot say that there is no opportunity of being heard. Hence the impugned order passed by the appointing authority is in order.

10. The appellate authority has taken a decision by modifying the punishment by reducing the punishment 2 years 6 months to withholding of increment of pay for one year. Hence the appellate authority has passed the order after following the procedure. Both the orders of the disciplinary authority and the order^g of the appellate authority are speaking order^g and reasons are assigned.

Hence we are inclined to interfere with the said orders. On the basis of the revision petition the revisional authority has considered the case of the applicant and passed an appropriate and reasoned order by confirming the order of the appellate authority. Accordingly we do not find any fault or error of jurisdiction or violating the principles of natural justice by the respondents. The applicant has failed to prove his case for grant of the relief as prayed in the OA. Therefore we dismiss the Original Application. No order as to costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA" पृष्ठान्त से ओ/ल्या.....जयलपुर, दि.....

पतिविवरण का भी विवरण --

- (1) सचिव, जयलपुर, जयलपुर, जयलपुर
- (2) जयलपुर, जयलपुर, जयलपुर, जयलपुर
- (3) जयलपुर, जयलपुर, जयलपुर, जयलपुर
- (4) जयलपुर, जयलपुर, जयलपुर, जयलपुर

KC Raikwar, Adv.
Smt. S.R. Waghmare, Adv.

PMO
25-11-03

उप रजिस्ट्रार

Enclosed
25-11-03