

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No.91 of 2001

Bilaspur, this the 11th day of December, 2003

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

Surendra Kumar Chandrakar S/o Shri Baldau Prasad
Chandrakar, Aged 36 years, Permtt.resident of
Ex.ED BPM Jamgaon Thana:Patan (Patan), Distt.Durg,
at present C/o Lily Convent School, Rajatabab,
Raipur (CHH) - APPLICANT

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

Versus

1. Union of India, Rep.through Secretary,
Ministry of Communications, Deptt.of Posts,
New Delhi.
2. The Member (ED Cell), Postal Services Board,
New Delhi.
3. The Director Postal Services, O/o The P.M.G.,
Raipur Rgn. Raipur.
4. The Sr.Supdt.of Post Offices, Durg Division,
C.C.Bhilai.
5. Shri Rekhi Ram Yadav, Vill.Karga, Post Jamgaon,
Distt.Durg. - RESPONDENTS

(By Advocate - Shri P.Shankaran)

O R D E R (Oral)

By M.P.Singh, Vice Chairman -

The applicant has filed this Original Application with a prayer to quash the orders passed by the disciplinary, appellate & revisional authorities.

2. The admitted facts of the case are that the applicant was working as Extra Departmental Branch Post Master (for short 'EDBPM') at village Jamgaon(Patan), District Durg (Chhattisgarh). It was reported by SPM Patan to ASPOs Durg West Sub Division that the applicant while working as ED BPM at Jamgaon (Patan) received a sum of Rs.5,400/- on four occasions during the period from 2.7.1997 to 10.10.97 from Sri Rekhu Ram Yadav, a saving bank account holder having A/c No.329465, and the money thus received by him from the account holder was entered in the pass book, but

at the same time, no entry of deposit was made in the SO SB ledger of the Account Office, as the same was not deposited in the Government account. A preliminary enquiry into the incident was conducted and thereafter a charge sheet was issued to the applicant. An enquiry officer was appointed to enquire into the charges levelled against the applicant. The applicant was put off duty from 11.2.1998. The applicant denied the charges. The enquiry officer conducted the enquiry and submitted his report to the disciplinary authority on 31.3.1999 holding the charges proved against the applicant. A copy of the findings of the enquiry report was sent to the applicant on 29.4.1999 for submitting his representation. He submitted his representation on 8.5.1999. The disciplinary authority after considering the findings of the enquiry officer and other relevant material, imposed the penalty of removal from service on the applicant vide impugned order dated 30.6.1999 (Annexure-A-2). The applicant made an appeal to the appellate authority which was rejected vide order dated 11.8.1999 (Annexure-A-1). Thereafter, the applicant made a revision-petition to the revisional authority and the same was also rejected vide order dated 3.1.2001 (Annexure-A-14). Aggrieved by these orders, the applicant has filed this Original Application with a prayer to quash these orders.


3. Heard both the learned counsel. The learned counsel for the applicant has submitted that the amount of Rs.5400/-, which was given to the applicant, was returned to the concerned person i.e. the account holder and this money was not utilised by him. He has also pointed out certain lacuna in the procedure followed by the respondents while conducting the enquiry. In support of his claim, the learned counsel for the applicant has relied on a decision of the Hon'ble Supreme Court in the case of R.P.Bhatt Vs. Union of India & ors 1986 SCC(L&S) 330. He has also submitted that the appellate authority has not passed the order in accordance with the provisions of Rule 15 of EDA(Conduct and Service) Rules, 1964, according to which the appellate authority has to take into

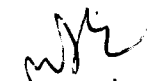
consideration the various facts and issues such as whether the procedure has been followed and the findings of the enquiry officer are justified. In this case the appellate authority has not taken into consideration, as these issues have not been discussed by the appellate authority while passing the appellate order dated 11.8.1999 (Annexure-A-1).

4. On the other hand, the learned counsel for the respondents has stated that the respondents have conducted the enquiry in accordance with the rules and the procedure. The charges have been proved against the applicant and the disciplinary, appellate & revisional authorities have properly applied their minds and have taken into consideration all the aspects of the matter while passing the orders. Therefore, no illegality has been committed by the respondents while passing the orders.

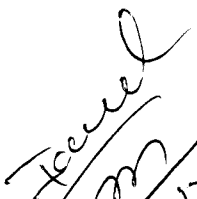
5. We have carefully considered the submissions made by the parties. We find that the applicant has been issued a charge-sheet for misappropriating Rs.5,400/- which was received by him on different occasions during the period from 2.7.1997 to 10.10.1997. He has also made entries of these amounts in the pass book of the account holder but at the same time he had not deposited the money in the Government account. The respondents have conducted the enquiry in accordance with the rules. The charges have been found proved against the applicant. It is the settled law by the Apex Court that the Tribunal cannot reappraise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Tribunal. In this case the charge levelled against the applicant is very grave and, therefore, the punishment cannot be treated as disproportionate to the misconduct committed by the applicant. We do not find any infirmity with the orders passed by the disciplinary appellate & revisional authorities. The decision relied upon by the applicant in the case of R.P.Bhatt(supra) is not applicable looking to the facts of the present case. Therefore, there is no reason to interfere with the orders passed by the authorities. Moreover, the applicant has also been given an opportunity of hearing. Thus, principles of natural justice have been complied with by the respondents.

6. For the reasons recorded in the preceding paragraph, this O.A. is bereft of merits and is accordingly dismissed, however, without any order as to costs.


(C. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman.

rkv.


17.12.07

STH Kizvi, Adm.
P. Shankaran, Adm.
