

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP : GWALIOR

Original Application No.265 of 1999

Gwalior, this the 15th day of July, 2003

Hon'ble Shri Kuldip Singh-Judicial Member
Hon'ble Shri Anand Kumar Bhatt-Administrative Member

B.P.Ganak. S/p Shri Baboo Lal. Aged 45 years,
Occupation Sorting Assistant. S.R.O.. R.M.S.,
M.P.Division, Gwalior - APPLICANT

(By Advocate - Shri S.C.Sharma)

Versus

1. Union of India Through the Secretary,
Department of Post India, Dak Bhawan,
Sansad Marg, New Delhi 110001.

2. The Chief Post Master General, M.P.Circle,
Bhopal-462 012.

3. The Superintendent, R.M.S. M.P.Division,
Bhopal-462 003. - RESPONDENTS

(By Advocate - Shri P.N.Kelkar)

O R D E R (Oral)

By Kuldip Singh, Judicial Member -

The applicant in this O.A. has assailed the orders passed by the disciplinary authority, appellate authority as well as by the revisional authority whereby punishment awarded to the applicant viz. withholding of one increment for a period of one year without cumulative effect, by the disciplinary authority has been upheld by the appellate and revisional authorities.

2. As per the articles of charge issued to the applicant, the allegation against him was that on 13.6.1995, 14.6.1995 as well as on 15.6.1995, the applicant while working at Sorting Assistant in Morena Head Post Office has not performed his duties as per error book and his

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work was not satisfactory. On 14.6.1995 the applicant did not perform duty at all with the result 13 bags and about 1000 loose letters which were lying for sorting remained lying in the Post Office. Similarly on 15.6.1995 the applicant did not perform his duty at all with the result 15 bags and about 2000 loose letters remained unsorted. So, the applicant was called upon to explain as to why for all these three days he had not worked ^{to} ~~to~~ ^{the} satisfaction of his superiors. A regular enquiry was held and thereafter the punishment order was issued which was taken up in appeal and revision before the appellate and revisional authorities where the punishment order was upheld. In order to challenge the same, the applicant has submitted that the charge-sheet as contained in Annexure A-1 is patently illegal, arbitrary and malafide because the same has no basis as the original error book as demanded by the applicant had never been produced before the enquiry officer. However, the applicant submits that during the inspection he had noted that there was no error in the error book but since the same has not been brought before the enquiry officer, so the findings recorded by the enquiry officer which were accepted by the disciplinary, appellate & revisional authorities are based on no evidence.

3. The applicant has also pointed out that as per Rule 65 of Postal Manual Vol. III the transit bags should be opened by the Mail Assistant and not by the Sorting Assistant. It is only after opening of the bags the Sorting Assistant is required to sort out the letters and unless the Mail Assistant opens the bags, the applicant could not have performed his duties.

4. The applicant has also taken another contention

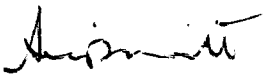
that the error book, as per the allegation in the error book, has been recorded at 3.00 p.m. in which it has been recorded that the applicant had not performed his duties for sorting whereas his duty was to start only after 10.00 a.m. to 6.00 p.m., so he could have still sorted out the mail as still 3 hours were available for sorting out the mails. As against this, the respondents have pointed out that when for the first time the applicant had submitted his explanation he never raised the point that the original error book does not contain the entries with regard to the errors. Rather in his explanation the applicant has pointed out with regard to certain other facilities mentioned by him in Annexure-A-7, which is explanation given by him with regard to the memo. As regards non-production of the original error book is concerned, the learned counsel of the respondents submits that the photo-stat copies which were produced before the enquiry officer are of the original error book, which is alleged to have been withheld by the respondents.

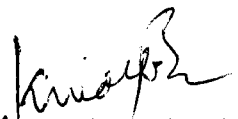
We have heard the learned counsel for the respondents.
5. ~~Further~~, after going to the orders passed by the disciplinary authority we find that the disciplinary authority has categorically mentioned in the order that the applicant was shown the original error book but the applicant himself had refused to note the same and had refused to put his signature thereon. Though the applicant had also taken a plea before the appellate authority that original error book had not been produced but the appellate authority had also negatived his plea and had upheld the order passed by the disciplinary authority. In our view also, since it has been categorically mentioned on record that it is the applicant who had refused to put his signature when he was shown the original error book, he cannot now at such a late stage take up the plea that the

original error book was not shown to him. Moreover in his explanation given to the respondents to the memo, the applicant had never raised that in the original error book there was no such type of entry.

6. As regards the opening of the mail bags is concerned, though as per Rule 65 *ibid* it is the duty of the Mail Assistant to open the bag, but the charge sheet points out that besides the mail bags there were loose letters lying which were numbering up to 2000 on these days which had also been not sorted out. So this plea is also not available to the applicant since he had not sorted out even the loose letters.

7. The applicant has taken another plea that the error book was sent at 3.00 p.m. whereas the applicant was ~~required~~ to work up to 6.00 p.m. Since we also find that the disciplinary authority has specifically noted that sending of the error book at 3.00 p.m. is not irregular or illegal and it is also not possible for the ~~postman~~ ^{postman} to wait till 6.00 p.m. for sending the error book. ~~The~~ As the applicant had not performed his duties right from 10.00 a.m. to 3.00 p.m. so the sending of error book at 3.00 p.m. cannot be said to be either illegal or irregular. Thus, we find that none of the contentions raised by the applicant has any merit. So the OA being bereft of merit is dismissed without any order as to costs.


(Anand Kumar Bhatt)
Administrative Member


(Kuldip Singh)
Judicial Member