

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 386 of 1999

Jabalpur, this the 12th day of February, 2004

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

B.L. Indole, aged about 45
years, son of Bhagirath Prasad
Indole, Postal Assistant (removed
from service) Resident of House No.
38, Ward no. 21, Phepartal,
Hoshangabad (M.P.).

... Applicant

(By Advocate - Shri R.K. Verma)

V e r s u s

1. Union of India, through the
Secretary, Ministry of Communi-
cations, Department of Posts,
India Dak Bhawan, New Delhi.
2. Chief Post Master General,
M.P. Circle, Bhopal (M.P.).
3. The Director, Postal Services,
M.P. Circle, Bhopal (M.P.).
4. Senior Superintendent of Post
Offices, Hoshangabad Division,
Hoshangabad (M.P.).

... Respondents

(By Advocate - Shri B.da.Silva)

O R D E R

By G. Shanthappa, Judicial Member -

By filing this Original Application the applicant has
claimed the relief for quashing the order dated 26.12.1997
(Annexure A-8), passed by the non-applicant No. 4 and also
order dated 10.12.1998 (Annexure A-12) passed in appeal by
the non-applicant No. 3 with all consequential benefits.

2. The brief facts of the case as stated by the
applicant are that the applicant while working as a Postal
Assistant was served with a charge sheet dated 5.11.1990
on the allegation that the applicant committed misconduct
and five charges were framed against him. The main charge

was that he accepted the amount from the depositors but he did not deposit the said amount and failed to credit in the Government accounts. Hence ~~his~~ ^{act} is of unbecoming of a Government servant. The applicant submitted his reply to the charge sheet. The enquiry was conducted. The applicant participated in the enquiry. Subsequently the enquiry report was submitted by the enquiry officer. The enquiry report was not served on the applicant. The applicant submitted his representation for not submitting the enquiry report. On the basis of the enquiry report and the representation of the applicant the disciplinary authority has passed the order dated 29.4.1992 by imposing the penalty by reducing the pay of the applicant by five stages from Rs. 1,210/- to 1075/- in the time scale of Rs. 975- 1660/- for a period of 5 years with effect from 1.6.92. It was also observed that in the order that he will not earn increments of pay during the period of reduction. Against the said order of the disciplinary authority the applicant has preferred an appeal before the appellate authority and the appellate authority has confirmed the orders of the disciplinary authority vide his order dated 24.3.1993. Against the said orders of the authorities, the applicant filed an OA No. 572/1993 before this Tribunal. This Tribunal has allowed the said OA on the ground that the enquiry report was not submitted to the applicant and there was a direction to pass fresh orders in accordance with law. Subsequent to the said direction of this Tribunal the respondents issued a show cause notice to the applicant and the enquiry report was ^{also} ~~not~~ submitted to the applicant. The applicant submitted his representation to the said show cause notice and the enquiry report. He has also demanded for arrears of pay and allowance as a consequence of quashment of the orders of the penalty. The applicant has

taken an objection that he has not committed any guilt and the charges levelled against him are illegal. After considering the objection on the enquiry report, the disciplinary authority has passed the order dated 26.12.97 and reduced the pay of the applicant by three stages from Rs. 4700/- to 4400/- in the time scale of pay of Rs. 4000-6000/- with effect from 1.1.1998 for a period of 3 years. During the said period the applicant will not earn the annual increments. The applicant has challenged the said orders of the disciplinary authority, before the appellate authority, on the ground that the disciplinary authority has not considered the case of the applicant and the order is not proper since the same authority had passed the different orders in the earlier occasion on the same set of facts and now the punishment has been changed which shows that there ~~was~~ ^{were} no charges against the applicant. The appellate authority had issued a show cause notice on 29.7.1998 to the applicant for enhancement of the punishment imposed by the disciplinary authority. The applicant submitted his objections to the said show cause notice. After considering the objections to the show cause notice the appellate authority has passed the order considering the gravity of the offence committed by the applicant and imposed the penalty of removal from service of the applicant with immediate effect, by enhancing the punishment imposed by the disciplinary authority. Against the said order the applicant has filed this application challenging the orders of the disciplinary authority and the appellate authority.

2.1. The grounds urged by the applicant for setting aside the said orders ~~is~~ ^{are} that the respondents have not considered the case of the applicant as per the earlier punishment orders passed on 29.4.1992 and 24.3.1993. When there are no

and
change of circumstances/^{and} facts, the punishment imposed by
the respondents under the impugned orders is not proper.
Hence this Tribunal should interfere with the orders and
set-aside the same or direct the authorities to impose
lesser punishment.

3. The respondents have submitted their reply contending
that there is no principles of natural justice violated and
ample opportunity was given to the applicant to participate
in the enquiry proceedings. Since the charge sheet has been
issued for mis-appropriation and defalcation of Government
funds, considering the gravity of charges which were proved
in the departmental enquiry, the disciplinary authority and
the appellate authority are justified in imposing the puni-
shment. While imposing the punishment the authorities have
considered all aspects including the conduct of the
applicant. When there are sufficient evidence on record,
the competent authorities have come to the conclusion that
the applicant is guilty of the charges levelled against him.
Thus there is no illegality or irregularity committed by
the respondents while passing the impugned orders and the
Tribunal should not interfere with the orders of the
respondents, in respect of punishment imposed against the
applicant. The respondents have supported the action of the
authorities and prayed for dismissal of the OA.

4. We have heard the advocate for the applicant and the
advocate for the respondents and perused the records
carefully.

5. We find that there were five charges levelled against
the applicant and which relates to defalcation of public
funds and also failed to maintain absolute integrity,

JK

while he was working as Postal Assistant. When the public have trust in the postal service and if this kind of an employee is retained in service, the public will loose the confident of the respondents. Hence the person who has no absolute integrity in financial dealings of the Government, such persons shall not be retained in service. The applicant was served with ^{the} charge sheet, he had submitted his objections to the charges, he had participated in the enquiry and cross-examined the witnesses. Thus we find that the applicant was given ample opportunity to defend himself before the enquiry officer, and at this stage we cannot say that the principles of natural justice was violated in the enquiry proceedings. All the charges are proved except SB A/c. No. 642721, against the applicant. On the basis of the submission made by the applicant, the disciplinary authority has carefully examined the case of the applicant and imposed the punishment on the applicant.

5.1. We find that there is no illegality or irregularity committed by the disciplinary authority while imposing the penalty. The disciplinary authority has exercised its powers vested in him and passed the impugned order of punishment. The applicant preferred an appeal before the appellate authority. The appellate authority has issued a show cause notice for enhancement of the punishment on the applicant. The applicant submitted his objection to the notice and the appellate authority after considering the enquiry report, orders of the disciplinary authority and the objections of the applicant, has imposed the penalty of removal from service on the applicant. The appellate authority has powers to enhance the punishment imposed by the disciplinary authority. Before enhancing the punishment show cause notice was required and that was also issued on the applicant and

the applicant also submitted his objections to the same. When the procedure has been followed by the appellate authority we do not find any illegality or irregularity committed by the appellate authority while passing the impugned order.

6. We have carefully examined the pleadings and the impugned orders and we are of the considered view that the applicant has lost his integrity and public trust by defalcation of public money. Thus it is not necessary to direct the respondents to consider the case of the applicant for imposing the lesser punishment. In this aspect the Hon'ble Supreme Court has time and again observed that if a Government servant has lost the public trust by mis-appropriation of the funds of the Government, then such type of persons shall not be retained in the service.

7. Accordingly, we find that the applicant has not made out any case for grant of the reliefs as claimed in the OA. Thus the same is dismissed. No costs.


(G. Shanthappa)

Judicial Member


(M.P. Singh)

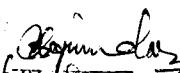
Vice Chairman

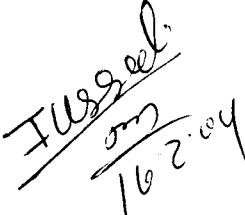
"SA"

कृतिकल सं. नं. ४४..... राज्याधिकारी द्वारा
प्रदत्त अधिकारी का नाम अवश्यक है।

- (1) अधिकारी का नाम अवश्यक है।
- (2) अधिकारी का नाम अवश्यक है।
- (3) अधिकारी का नाम अवश्यक है।
- (4) अधिकारी का नाम अवश्यक है।

कृतिकल सं. नं. ४४..... राज्याधिकारी द्वारा


राज्याधिकारी द्वारा


T.B. Chaudhary