

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.485 of 1997

Jabalpur, this the 28th day of February, 2003.

Hon'ble Mr. R.K.Upadhyaya, Member (A)
Hon'ble Mrs. Meera Chhibber, Member (J)

Ram Prasad Paliwal S/o late Shri K.L.
Paliwal, retired A.P.M., aged about
60 years, resident of 730-A, Amanpur,
Madan Mahal, Jabalpur.

-APPLICANT

(By Advocate- Mr. S.Paul)

Versus

1. Union of India through the
Secretary, Ministry of Communications,
Department of Posts, New Delhi-110001.
2. President of India through
the Desk Officer, Ministry of
Communications, Department of Posts,
New Delhi-110001.
3. The Chief Postmaster General,
M.P.Postal Circle, Hoshangabad
Road, Bhopal.
4. The Director,
Postal Services, Raipur Region,
Raipur.
5. The Senior Superintendent of Post
Offices, Jabalpur Division, Jabalpur.

-RESPONDENTS

(By Advocate- Mr. S.C.Sharma)

O R D E R

By R.K.Upadhyaya, Member (Admn.):

The applicant has filed this Original Application seeking direction to set-aside the disciplinary proceedings and also the punishment order dated 30.1.1997 (Annexure A-1) being an order issued in the name of President of India by which penalty of 20% cut in monthly pension, otherwise admissible to him has been imposed for a period of five years.

2. The applicant states that he retired on superannuation as Assistant Post Master (A.P.M. for short), Jabalpur Head Post Office, Jabalpur on 31.3.1995. While working as Savings

Chhagun

Contd...P/2*

Bank Counter Clerk at Jabalpur City Post Office, during the period 15.6.1992 to 19.6.1992, two withdrawals had taken place from the Saving Bank Account No.468864. The applicant has been issued a charge sheet as per memorandum dated 4.10.1994 under Rule 14 of CCS(CCA) Rules, 1964, in which the following article of charge has been levelled against the applicant:-

"ARTICLE-I

That the said Shri R.P.Paliwal while functioning as SB Counter Clerk JB City during the period from 15.6.1992 to 19.6.1992 allowed fraudulent withdrawal for Rs.9500/- on 15.6.1992 and Rs.1250/- on 19.6.92 from JB City SB Account No.468864 which was standing opened in the name of Shri Aziz Bhai Subjimandi Niwarganj Jabalpur-2 who expired on 16.8.91.

That said Shri R.P.Paliwal failed to compare the signature properly on withdrawal form (SB-7) with specimen signature that on records as required under Rule 33 (5) of PO SB Man. Vol.I.

Thus from the above acts Shri R.P.Paliwal exhibited gross negligence thereby violated the provision of Rule 33 (5) PO SB Man. Vol.I and acted in contravention of provision of Rule 3(1) (i) (ii) of CCS (Conduct) Rules, 1964."

The impugned order of punishment Annexure A-1 has been issued in pursuance to this charge sheet. However, the applicant claims/earlier ~~that~~ ^{that} the applicant was issued a memorandum dated 19.7.1994 (Annexure A-2) under Rule 16 of CCS(CCA) Rules, 1965, in which the charge was "identical" to the charge as communicated in the subsequent charge sheet, but the disciplinary proceedings pursuant to the earlier charge sheet dated 19.7.1994 were "ordered to be dropped without prejudice to further any action" as per letter dated 27.9.1994 (Annexure A-4). A copy of which was issued to the applicant also. The learned counsel of the applicant invited attention to the order dated 17.5.2000 in OA No.349 of 1995 in the case of Wren Paul Vs. Union of India & others, (Annexure A-IA/1), wherein this Tribunal relying on the provisions contained in Rule 15 (9) of the CCS(CCA) Rules,

Chintan

1965 cancelled the second charge sheet issued under Rule 14 of CCS(CCA) Rules, 1965, as the reasons for cancellation of the original charge sheet or dropping the proceedings were not properly mentioned and duly stated while dropping the proceedings initiated under earlier charge-sheet. He also referred to the order dated 6.2.1987 in the case of R.B.Parmar Vs. Union of India and others decided by Ahmedabad Bench of this Tribunal, 1987 (2) (CAT) SLJ 46 in support of the same contention.

2.1 On merits, the learned counsel stated that some wrong payments were made. However, the applicant has followed the prescribed procedure. The applicant had got the signature of the Saving Bank Account Holder verified by a known person as per prescribed procedure. He invited attention to the provisions relating to Identification of the Depositor (Annexure A-8), where it has been stated that withdrawals should not be refused on the excuse of difference in signature. A depositor may be identified by a person known to the P.O. In this case, the signatures were in Urdu and the applicant being not familiar with the Urdu language got it verified by one Shri C.B.Mishra, an Ex. Postal employee and agent. In the circumstances, no punishment is warranted. The learned counsel for the applicant raised alternative plea that the punishment was on high side.

3. The learned counsel for the respondents stated that the issue of second charge sheet could not be challenged in the present proceeding, as the same was subject matter of OA No.52/1996. In that O.A. relief sought was as follows:-

"That the order/memo of Senior Superintendent Post Offices Jabalpur No.F-6-7-/92 dated 4.10.94 under Rule 14 of CCS(CCA) Rules, 1965 initiating the disciplinary proceedings against the applicant be quashed being illegal and malafide with the intention to harass and to torment the applicant."

Ch.Enggaw
Contd....P/4.

According to the learned counsel of the respondents, this Tribunal by order dated 1.8.1996 disposed of O.A.No. 52/1996 with the following observation:-

"4. The question therefore arises whether the order dated 27.9.94 applies with the requirement of para 9 of the Govt. of India's instructions below Rule 15 of the CCS(CCA) Rules, 1965 dated 5.7.79. In the Govt. of India's instruction mentioned above, it has been clearly mentioned that the Disciplinary authorities would be debarred from initiating fresh proceedings against the delinquent officers unless the reasons for cancellation of the original charge sheet or for dropping the proceedings are appropriately mentioned and it is duly stated in the order that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case. The learned counsel for the respondents submits that the payment has been made to the widow of Aziz Bhai on her application made to the Department on 29.11.94. The major penalty charge sheet is based on documents and the statement of the applicant wherein he has given certain explanation. The issue of charge sheet by itself does not mean that he is likely to be punished for misconduct. The applicant can explain and adduce evidence of rebuttal of the charges framed against him. The applicant's counsel vehemently stated regarding verification of the signature and said that the payment was made to the party. But all these questions have to be considered by the disciplinary authority and not by the applicant....."

According to the learned counsel of the respondents, the applicant at the most/advance arguments on the merits of the case and not on preliminary grounds of issue of charge sheet, as the same already stands concluded by the order of this Tribunal in OA No.52/96. It was further pointed-out by the learned counsel of the respondents that the scope of interference by this Tribunal is limited to examine as to whether the principles of natural justice have been violated or the punishment is based on no evidence. In his opinion, this is not a case of no evidence as the applicant has been provided adequate and reasonable opportunities to defend himself. The Enquiry Officer has allowed the applicant to cross-examine the witnesses and his report is based on materials and statements during the course of enquiry. He, therefore, urged that the present application deserves to be dismissed.

3rd Jan 97

4. We have heard the learned counsel of both the parties and have also perused the material available on record including the enquiry file, which was made available to us at the time of hearing of this application.

5. The applicant was charged for non-compliance of provisions of Rule 33(5) of PO SB Man.Vol.I and contravention of provision of Rule 3(1)(i) (ii) of CCS(Conduct) Rules, 1964. The disciplinary proceedings initiated as per memorandum dated 19.7.1994 for initiating disciplinary proceedings were "ordered to be dropped without prejudice to further any action", as per letter dated 27.9.1994 (Annexure A-4). Subsequently, the impugned charge sheet dated 4.10.1994 (Annexure A-5) was issued. The issue of second charge sheet was challenged in OA No.52/96, which was disposed of by order dated 1.8.96 (Annexure IA/B). The extract of the order as re-produced earlier clearly shows that this Tribunal had already refused to cancel the second charge sheet on the grounds now raised by the applicant. Since this preliminary ground regarding maintainability of second charge sheet has already been taken-up by the applicant before this Tribunal and this Tribunal by order dated 1.8.96 in OA No.52/96 has already adjudicated, that this issue is no longer open for adjudication in the present O.A. The applicant could have pursued his legal remedies by challenging the order of this Tribunal dated 1.8.96, if there was any grievance on that point. Since the applicant has not done so, he cannot agitate the same in this O.A. So far as the claim of the learned counsel of the applicant regarding punishment being unwarranted on the facts of this case is concerned, the same is contrary to the facts on record. The applicant was working as Savings Bank Counter Clerk as well as A.P.M. when this fraudulent payment was made. As per existing orders, the applicant

Chintan

was duty bound to compare the signatures of the depositors with the specimen signatures available at the post office. A casual look to the specimen signature and the signature on withdrawl form leaves no room for any doubt that the signatures were materially different. The applicant should have been vigilant in such a case. The plea that he did not know Urdu language is not relevant as can be found from mere look at the signature of the claimant with the specimen signature of the account holder. The applicant cannot escape from the responsibility of being negligent. If an amount of Rs.9,500/- was being allowed to be withdrawn on the strength of bogus and fraudulent claim, the applicant should have ~~know~~ ensured that the interests of the Government were properly protected. A close scrutiny of the statements made available leaves no room for doubt that the applicant deliberately connived with one C.B.Mishra, retired postal employee in fraudulent withdrawal of Rs.9,500/- and again of Rs.1,250/-. The report of Enquiry Officer is based on the cogent material and statements. The impugned punishment order has been passed after following proper procedure and obtaining advice of Union Public Service Commission. Having gone through the records, we are of the view that there is no irregularity or violation of principles of natural justice in awarding punishment to the applicant. Therefore, we do not find any justification to interfere with the impugned order of punishment. This O.A. is accordingly dismissed without any order as to costs.



(Mrs. Meera Chhibber)
Member (J)



(R.K. Upadhyaya)
Member (A)

प्रकाशन से ओ/व्या..... जबलपुर, दि.....

प्रतिलिपि दाते दिल्ली -

(1) दिल्ली दाते दिल्ली - जबलपुर

(2) दिल्ली दाते दिल्ली - जबलपुर

(3) दिल्ली दाते दिल्ली - जबलपुर

(4) दिल्ली दाते दिल्ली - जबलपुर

शुद्धी दाते दिल्ली - जबलपुर

S. Deori, ACC

SC. Sharma - ACC

Deori
4/3/03

Issued
On 5.3.03
By