

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 838 of 1999

Jabalpur, this the 4th day of February, 2004

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

D.S. Warkade, Sub Post Master
S.P.M. Shahpura (Niwas)
Distt. Mandla Division
Balaghat (M.P.)

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India
Secretary, Ministry of Communication
Department of Post
Through Director Postal Services
Raipur Region Raipur 492 001 (M.P.)

2. Shri R.K. Shrivastava
Senior Supdt. of Post Offices
Balaghat Division, Balaghat (MP)
483 001.

(By Advocate - Shri Harshit Patel on behalf of
Shri S.C. Sharma)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

None is present on behalf of the applicant.

As this is an old matter of the year 1999, we are disposing of the same, by invoking the provisions of Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987, after hearing the learned counsel for the respondents and on perusal of the available pleadings.

2. By filing this O.A. the applicant has prayed that till the decision of the representation (Annexure-A-2) the punishment of withholding of increment and recovery of Rs. 10,000/- from the pay of the applicant in ten equal monthly instalments of Rs. 1000/- each as mentioned in the last para of punishment order (Annexure-A-1) be stayed. The applicant has also challenged the orders dated 4.5.2000 and 16.2.2000 (Annexures-A/1-A and A/1-B respectively), through an amendment.

3. The brief facts of the case are that


a charge-sheet under Rule 16 of CCS(CCA) Rules, 1965 was issued to the applicant on 1.11.1999 for the alleged misconduct. The charge levelled against the applicant was as under-

"Shri D.S. Warkade, SPM, Shahpura (Niwas) while working as Dy. Postmaster Mandha H.O. during the period from 22-12-86 to 7-1-87 detected loss of NSC purchase applications Nos. 2012, 2013, 2014, 2015, 2016, 2018, 2019, 2020, 2039, 2040, 2044, 2055 and 2057 on dated 31.7.86 Shri D.S. Warkade prepared a list of these missing applications under his dated signature of 31-7-86 but failed to take action as required under rule 23(14) of Post Office saving Bank Manual, Volume-II.

As a result of his inaction the purchaser of NSC application regn no. 2057 Shri Bairagi S/o Shri Hazari Resident of vill. Chutka filed a case in the Distt. consumer forum Mandla alleging non payment of 6 Yr. NSCs bearing No 6 NS/E/3 059922 to 059924 of Rs. 100/- each and 6 NS E/2 429074 to 6 NS/E/2 429075 of Rs. 1000/- Dn., purchased by him on 19-7-82. The Hon'ble consumer forum ordered payment of Rs. 19,409.30 out of which a sum of Rs. 4,734.50 was the actual maturity value of the above NSC's. A sum of Rs. 14,774.81 being interest on maturity value and legal and other expenses will have to be made by the department. On account of irresponsible working of Shri D.S. Warkade.

It is, therefore, alleged that Shri D.S. Warkade has failed to maintain absolute devotion to duty and acted in a manner unbecoming of Govt. servant and has thus infringed the provisions of rule 3(2)(i) of CCS (Conduct) Rules 1964".

The applicant replied to the said charge vide his representation dated 11.11.1999. After considering the statement of imputation of misconduct and the defence submitted by the applicant, the disciplinary authority held the allegations levelled against the applicant proved and imposed the penalty of recovery of Rs. 10,000/- from the pay of the applicant in ten equal monthly instalments of Rs. 1000/- each, besides withholding of his next one increment for a period of three months without future effect, vide order dated 18.11.1999 (Annexure-A-1). However, on an appeal preferred by the applicant against the order of punishment, the appellate authority directed the disciplinary authority to proceed with the matter from the stage of issue of charge sheet. Accordingly another memo was issued to the applicant on 2.2.2000 and the applicant



submitted his reply to the same vide his representation dated 7.2.2000. After considering the statement of imputation and the defence submitted by the applicant the disciplinary authority passed the impugned order dated 16.2.2000 imposing the penalty of recovery of Rs.8,800/- from the pay of the applicant in eleven equal monthly instalment of Rs.800/- per month. The appeal filed by the applicant against the said order, has been rejected by the appellate authority vide its order dated 4.5.2000. Hence this OA.

4. Heard the learned counsel for the respondents and perused the pleadings carefully.

5. The respondents have contended that there is no procedural irregularity in the conduct of the enquiry. There was sufficient material in the enquiry to hold the applicant guilty of the charges levelled against him. The applicant being a Deputy Post Master Mandla during the period 3.2.1986 to 25.6.1991 could not notice the irregularity with respect to NSC certificate. It was noticed on 31.7.1986 that the application form for purchase of NSC bearing registration no.2057 was not available in guard-file and the applicant did not take action as required under Rule 23(14) of the POSB Manual Part-II. The applicant in the present case only gave remarks in the Error Book during his incumbency and failed to follow the procedure laid down in the rules. Therefore, a charge-sheet under Rule 16 of the CCS(CCA) Rules, 1965 was issued to him and only of recovery of Rs.8800/- a minor penalty has been imposed on the applicant after considering his representation.

6. We find that the applicant was charge-sheeted under Rule 16 ibid and after considering his representation a minor penalty has been imposed on him. It was only a case of minor penalty charge-sheet, therefore, there was no question of conducting any full-fledged enquiry. As the applicant has been given an opportunity of hearing by way of

submitting his representation, the principles of natural justice have been followed by the respondents. Now it is the very settled legal position that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction (see Union of India Vs. Parma Nanda, AIR 1989 SC 1185). If there has been an enquiry consistent with the rules and in accordance with the principles of natural justice, the Tribunal cannot reappraise the evidence. The Tribunal has also no jurisdiction to go into the correctness or truth of the charge. The Tribunal cannot take over the functions of the disciplinary authority. The function of the Tribunal is one of the judicial review and the judicial review cannot extend to the examination of the correctness of charges or reasonableness of a decision (see-Union of India Vs. Upendra Singh, JT 1994 (1)SC 658). The applicant was a Deputy Post Master. He gave remarks in the Error Book but failed to follow the procedure laid down in the rules, because of which a sum of Rs.14,774.81 was to be paid by the department to the claimant in terms of the orders of the District Consumer Forum. Therefore, the action of the respondents cannot be treated as unjustified while imposing the minor penalty of recovery of Rs.8,800/-on the applicant.

7. In view of what has been stated above, we do not find any merit in this O.A. and the same is accordingly dismissed, however, without any order as to costs.

(G. Shanthappa)
Judicial Member

(M.P. Singh)
Vice Chairman

rkv.

12.9.04

पृष्ठांकन सं ओ/ज्या.....जबलपुर, दि.....

पत्ति लिखिते

(1) सतिपुत्र, जबलपुर

(2) के काउंसल

(3) के काउंसल

(4) के काउंसल

सूचना के अधिनियम, 2005 के तहत सूचना का प्रकाशन

DS Prasad
SC Sharma