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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

22.09.2011

OA No.274/2007

Mr. P.N.Jatti, counsel for the applicants
Mr. R.G.Gupta, counsel for respondents

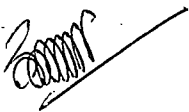
Heard the learned counsel for the parties.

The OA stands disposed of by a separate order for the reasons dictated therein.



(JUSTICE K.S.Rathore)
Judl. Member

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 22nd day of September, 2011

Original Application No.274/2007

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)

B.P.Kaushik,
s/o Shri Kalyan Prasad,
r/o House No.224,
Mahatma Gandhi Nagar,
D.C.M. Ajmer Road, presently
working as P.A. (BCR)
In Vaishali Nagar, Post Office,
Jaipur.

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India
through the Secretary to the Govt. of India,
Department of Posts,
Dak Bhawan,
Sansad Marg, New Delhi.
2. Chief Post Master General,
Rajasthan Circle,
Jaipur
3. Senior Superintendent,
Post Offices,
Jaipur City Division,
Jaipur

.. Respondents

(By Advocate: Shri R.G.Gupta)

ORDER (ORAL)

The present OA is directed against the impugned orders dated 10.7.2006 (Ann.A/1) and 22.6.2005 (Ann.A/2) passed by the Appellate Authority and Disciplinary Authority respectively.

2. The applicant was charged with the following allegations:-

- (a) Improperly packed and having without CSD cross sealed Nasik Road Post office insured parcel no.952 and 953 dated 29.03.2001 addressed to the Superintendent, CSD, Jaipur
- (b) By not protection of these damaged Insured parcels in protected bag.
- (c) Also alleged for not issuing notice to Superintendent, CSD Jaipur for taking open delivery.
- (d) Also alleged to have preserved the records only after receipt of report from CSD Jaipur regarding short receipt of stamps worth Rs. 1,60,000/- from the above insured parcels.
- (e) There by failed to act as per the provisions of Rule 98, 195, 196 and 144 of Postal Manual Vol. V and also failed to maintain devotion to duty as required vide Rule 3.1(ii) of CCS (Conduct) Rules, 1964.

3. Enquiry was conducted and the charges leveled against the applicant were found proved. Having considered the enquiry report, the Disciplinary Authority vide its order dated



22.6.2005 in exercise of powers conferred under CCS (CCA) Rules, 1965 ordered that out of Rs. 53,333/-, a share of Rs. 26,667/- be recovered from the pay of the applicant in 12 installments i.e. 11 installments of Rs. 2300/- each and 12th installment of Rs. 1367/- commencing from the salary for the month of June, 2005.

4. Aggrieved and dis-satisfied with the order passed by the Disciplinary Authority dated 22.6.2005, the applicant preferred statutory appeal dated 4.7.2005 before the Appellate Authority. The Appellate Authority having considered the order passed by the Disciplinary Authority and the submissions made on behalf of the applicant observed that the applicant has been rightly punished for his proven act of negligence which caused loss to the exchequer. Accordingly, the Appellate Authority in exercise of the appellate powers conferred vide Rule 27 of the CCS (CCA) Rules, 1965, rejected the appeal dated 4.7.2005 preferred by the applicant and the punishment order dated 22.6.2005 passed by the Disciplinary Authority was upheld.

5. Without filing revision petition, the applicant has preferred this OA to challenge the order passed by the Disciplinary Authority as well as by the Appellate Authority on the ground that copy of the enquiry report has not been furnished to the applicant. Further submits that the documents which have



been asked by the applicant were also not provided to him and in the absence of relevant documents, the applicant was not able to defend his case against the allegations. As such, the action of the respondents is clear violation of Article 311 (2) of the Constitution of India.

6. It is also alleged that the respondents are not able to prove the allegations alleged against the applicant. As regard charge-A in respect of improperly-packed condition of these two insured parcels, it is stated that it a mis-concept as no official document of observation of any authority has been made available to establish the suspected condition of these two insured parcel exclusively, whereas these parcels were delivered by one delivery slip dated 31.3.2001. As regards charge-B i.e. non protection of these damaged insured parcels in protected bag is concerned, it is submitted by the applicant that since insured parcels were received in intact condition and delivered, as such, no necessity arose to protect the parcels. Protection of parcel is warranted only when the outward condition is damaged. Since no damage took place during postal transaction and delivery was made under clear receipt, it was not required to protect the parcels as per Rule. Similarly, as regards Charge-C that is allegation for not issuing notice to the Superintendent CSD, Jaipur for taking open delivery, in the statement of the applicant. it is



stated the parcel bags/insured parcel bags were opened in presence of Shri Sita Ram Sharma the then APM, Jaipur RS Post Office and adopted the procedure as prescribed in Rules to verify the weight, intact condition and number with reference to the marks noted on the parcel list and the insured parcels itself and there was no ground of suspecting that parcel was tampered with or damaged and the took safe delivery. Similar objection has been raised by the applicant with regard to Charge-D and E and referred to Rule 195, 196 and 144 of the Postal Manual. Rule 195 relates to the procedure to be adopted in the event of discrepancies and Rule 196 relates to delivery of damaged articles. Rule 144 relates to important irregularities to be reported by the Telegraph.

After referring the statement and representation submitted by the applicant against the proved disciplinary action, the learned counsel for the applicant submits that the charges were proved contrary to the record without considering submissions of the applicant.

7. Per contra, the learned counsel appearing for the respondents submits that the chargesheet under Rule 16 of the CCS (CCA) Rules was issued to the applicant vide memo dated 29.10.2004 based on the charge of failure to act as per the provisions of Rule 98, 195, 196 and 144 of Postal Manual Vol.V at the time of delivery of Nasik Road Post Office Insured



Parcel No. 952 and 953 dated 29.3.2001 addressed to the Superintendent, Circle Stamp Depot (CSD), Jaipur on 31.3.2001. While working as Postal Assistant, Jaipur RS Post office, in as much as, he allegedly failed to have preserved the records at proper time but had done so after receipt of report from the CSD, Jaipur regarding short receipt of stamps worth Rs. 1,60,000/- from the above insured parcel. The applicant was given opportunity to represent against the proposed charge. The applicant submitted his representation dated 9.3.2005 and after due consideration, the Disciplinary Authority has imposed the penalty of recovery of Rs. 26,667/- from his pay in 12 installments i.e. 11 installments of Rs. 2300/- each and 12th installment of Rs. 1367/- commencing from the pay for the month of June, 2005 vide memo dated 22.6.2005. The same penalty has been upheld by the Appellate Authority and no illegality has been committed by the respondents. It is further stated that the documents asked by the applicant have been provided to the applicant as is evident by Ann.R/2 and R/3 submitted along with the reply.

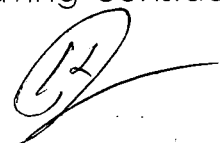
8. Having heard the rival submissions of the respective parties and upon careful perusal of the charges leveled against the applicant and looking to the gravity of the charges and the illegality committed by the applicant as in the insured parcel No.952 and 953 dated 29.3.2001, stamp



worth Rs. 1,60,000/- were received in short and looking to the loss caused to the public exchequer and considering the lapse on the part of the applicant that the applicant was negligent in discharging the duties and on account of this, a loss has been caused to the public exchequer to the tune of Rs. 1,60,000/- and thus out of Rs. 53,333/- a share of Rs. 26,667/- has been recovered from the pay of the applicant. The penalty awarded by the Disciplinary Authority has been upheld by the Appellate Authority.

9. It is not disputed that the previous chargesheet under Rule 16 of CCS (CCA) Rules, 1965 which was issued vide Memo dated 13.2.2004 was dropped on 17.6.2004 by the Disciplinary Authority on technical grounds without prejudice to further action. The grounds taken by the applicant that the earlier chargesheet was dropped without assigning any reason cannot be accepted. The Disciplinary Authority dropped the chargesheet without prejudice to further action against the applicant. Thus, we find no illegality in dropping the previous chargesheet on technical grounds to issue a fresh chargesheet without prejudice to further action against which is just and proper.

10. It is also not disputed that recovery has been made as no interim order was granted by this Tribunal at the time of issuing notice to the respondents and having considered the



order impugned passed by the Disciplinary Authority as well as the Appellate Authority, we find no illegality in the impugned orders looking to the gravity of charges levelled against the applicant and looking to the negligence on the part of the applicant.

11. Consequently, the impugned orders do not require interference of this Tribunal and the OA filed by the applicant being bereft of merit deserves to be dismissed, which is hereby dismissed with no order as to costs.


(JUSTICE K.S.RATHORE)
Judl. Member

R/