

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 21st day of March, 2011

O.A. No. 287/2007

CORAM:

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

Vikram Singh
s/o Shri Amar Singh,
r/o village and Post Jhakal,
Tehsil Nawalgarh,
District Jhunjhunu,. Last
employed as Gramin Dak Sevwak
(Extra Departmental),
Branch Post Master Bugala,
Extra Branch Post Office, via Jhakal,
(removed from service)

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India through
Its Secretary to the Government of India,
Department of Posts,
Ministry of Communications and
Information Technology,
Dak Bhawan, New Delhi.
2. Post Master General,
Rajasthan Western Region,
Jodhpur.
3. Director, Postal Services,
Rajasthan Western Region,
Jodhpur.
4. Superintendent of Post Offices,
Jhunjhunu Postal Division,
Jhunjhunu.



.. Respondents

(By Advocate: Shri Gaurav Jain)

ORDER (ORAL)


Brief facts of the case are that the applicant was initially appointed as Extra Departmental Branch Post Master (EDBPM), Bugala, District Jhunjhunu on 18.9.1987 and since then continuously worked with the respondents till passing of the punishment order of removal from employment by the Disciplinary Authority and upheld by the Appellate as well as Revising Authority. The applicant was put off from duty by respondent No.4 vide memo dated 25.2.2005 on the ground that disciplinary proceedings are pending against the applicant. He was served with the charge memo dated 11.3.2005 under Rule 10 of Gramin Dak Sewak (Conduct and Employment) Rules, 2001 [GDS (Conduct & Employment) Rules] on the allegation that applicant not credited amount of R.D. Account No. 702887 obtained from the depositor in Branch Office account and by such action the applicant misappropriate the money and crediting the same after sometime is in violation of Rule 131 read with 143 and 144 of the Extra Departmental Branch Office, Rules, 6th Edition and also not maintained devotion to duty which is violative of Rule 21 of the GDS (Conduct & Employment) Rules. The charges leveled against the applicant are based in connection with misappropriation of money for short duration. On denial of charge by the applicant, respondent No.4 appointed Inquiry Officer as well



as Presenting Officer of such officials those are holding the post of Inspectors of Post Offices under the Administrative control of respondent No.4. The applicant not admitted the charges leveled against him and requested for detailed enquiry. After appointing Inquiry Officer as well as Presenting Officer by the Disciplinary Authority as per procedure of Rule 14 of CCS (CCA) Rules, 1965, detailed inquiry has been conducted against the applicant.

2. The Inquiry Officer thoroughly conducted the inquiry on the basis of the supported documents made available as well as recorded statement of prosecution witness Smt. Sajjana Devi (SW-1), Shri Sujan Sanjeev Kumar (SW-2) and Shri Mahavir Prasad (SW-3) and relied upon documents taken on record in which SW-1 testified signatures of witnesses one Shri Ram Niwas and similarly other witnesses also testified signatures of those who are not witness before the Inquiry Officer. The Inquiry Officer after conducting inquiry proceedings submitted report on 22.8.2005 and having considered the inquiry report, respondent No.4 imposed punishment of removal from employment.

3. Aggrieved and dis-satisfied with the removal order dated 27.9.2005, the applicant preferred appeal before the Appellate Authority i.e. respondent No.3 on 26.12.2005 but the appeal was rejected vide memo dated 21.7.2006. Against the appellate order, the applicant further preferred revision petition on 6.11.2006 before respondent No.2 as per provisions of Rule 19 of GDS (Conduct & Employment), Rules, 2001 but the same was also dismissed vide memo dated 22.6.2007. Therefore, the applicant preferred the



present OA against the orders passed by the Disciplinary Authority dated 27.9.2005, Appellate Authority dated 21.7.2007 and revising authority dated 22.6.2007.

4. The main challenge of the applicant to the aforesaid orders by way of this OA is on the ground that action of the respondents is arbitrary, illegal and unjustified and also against the rules/regulations/instructions. The applicant also alleges that action of the respondents is also against the provisions of Article 14 and 16 of the Constitution of India. It is further contended on behalf of the applicant that the Inquiry Officer relied upon the documents which were not testified by the authors of the documents. Thus, action of the Inquiry Officer is against the principles of natural justice and is liable to be quashed and set-aside.

5. The learned counsel appearing on behalf of the applicant does not dispute to the effect that the applicant has misappropriated Rs. 950 and later on the same was deposited with interest.

6. The learned counsel appearing for the respondents strongly controverted the fact mentioned by the learned counsel for the applicant and referred document Ann.R/1 where the applicant has himself admitted the fact that he has misappropriated the amount in question and has undertaken to deposit the same with interest which fact is further affirmed from the statement Ann.R/2 which was taken while examining the applicant. Further, the applicant vide his letter dated 1.2.2005 (Ann.A/3) shown his willingness to deposit the



entire amount alongwith the interest. Even the applicant has not disputed the fact that he has not misappropriated the amount.

7. The learned counsel appearing for the respondents in support of his submission placed reliance on the judgment rendered by the Central Administrative Tribunal, Jaipur Bench in OA No.594/2005 , Ummed Singh vs. UOI, vide its order dated 31st August, 2009 wherein similar controversy was involved with regard to Gramin Dak Sewak Branch Post Master and applicant in that case also misappropriated the fund and the Tribunal placed reliance on the judgment rendered by the Hon'ble Apex Court in the case of Swadesh Pal Baliyan vs. Air Force Commanding-in-Chief, 2005 (1) SLJ 285 wherein the Hon'ble Apex Court held that unconditional admission can be relied upon and when one has admitted clearly, no other proof is required. The learned counsel further placed reliance on the judgment rendered by the Hon'ble Apex Court in the case of Damoh Panna Sagar Rural Regional Bank and Another vs. Munna Lal Jain [Civil Appeal No.8258 of 2004 arising out of SLP (C) 19412/2004] decided on 17.12.2004 and another decision of the Hon'ble Rajasthan High Court in the case of Amar Singh Man vs. Union of India and Others [DB Civil Writ Petition No.3150/2005] decided on 20.2.2005. The learned counsel further placed reliance on judgment of the Division Bench of Hon'ble Rajasthan High Court in the case of Moolchand vs. UOI in D.B.Civil Writ Petition No.1329/2004 wherein the Hon'ble High Court placing reliance on the judgment of the Hon'ble Supreme Court in the case of Demoh Panna Sagar Rural Regional Bank vs. Munna Lal Jain (supra)



observed that unless the punishment shocks the conscience of the Court, there is no scope for interference. Applying the ratio decided by the Hon'ble Supreme Court and followed by the Hon'ble High Court as well as by this Tribunal and after giving due consideration to the submissions made by the learned counsel for the parties, we are of the view that in view of the gravity of the charges and misconduct and also the fact that the applicant has misappropriated the public money and has himself admitted the fact that he has misappropriated the money in his statement and later on deposited the money with interest, the penalty of removal from service cannot be said to be disproportionate to the misconduct committed by the applicant. The view which was taken by the Hon'ble Supreme Court in the case of Demoh Panna Sagar Rural Regional Bank vs. Munnal Lal Jain (supra) and has also been followed by the Hon'ble High Court in the case of Amar Singh Man (supra) is fully applicable in the facts and circumstances of the present case.

8. In view of the above observations, the OA being bereft of merit is dismissed with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K. S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/