

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

01/02/2013 O A No. 387/2010

Mr. C. B. Sharma, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

Heard.

O.A. is disposed of by a
separate order on the separate-
sheets for the reasons recorded
therein.

Anil Kumar
[Anil Kumar]
Member (A)

K. S. Parthore
[Justice K. S. Parthore]
Member (J)

THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Friday, this the 1st day of February, 2013

ORIGINAL APPLICATION No.387/2010

CORAM:

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

Krishna Gopal Shranghi
s/o late Shri Mool Chand,
aged about 62 years,
r/o Village and Post Leeleda (Talera),
District Bundi, last employed as
Gramin Dak Sewak, Branch Postmaster,
Leeleda, Branch Post Office,
District Bundi (removed from Service)

.. Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India
Through its Secretary to the Govt. of India,
Department of Posts,
Ministry of Communication and
Information Technology,
Dak Bhawan, New Delhi.
2. Postmaster General,
Rajasthan Southern Region,
Ajmer
3. Director, Postal Services,
Rajasthan Southern Region,
Ajmer.

4. Superintendent of Post Offices,
Tonk Postal Division,
Tonk.

.....Respondents

By Advocate : Shri Mukesh Agarwal)

ORDER (ORAL)

Brief facts of the case are that the applicant was initially appointed as Extra Departmental Branch Post Master (EDBPM) now designated as Gramin Dak Sewak Branch Post Master (GDSBPM), Leelera Branch Post Office, Bundi on 6.10.1977. Respondent No.4 served a charge memo dated 12.6.2006 under Rule 10 of Gram Dak Sewak (Conduct and Employment) Rules, 2001 on the applicant on the allegation that applicant remained absent from 31.7.2004 to 27.11.2005 without any information and without sanctioned leave. It is also alleged that without tendering resignation from the post of GDSBPM, he joined the services as Gram Sachiv, Chandesra (Mawali) on deputation, thus, violated Rule 7 and 21 of the GDS (Conduct and Employment) Rules, 2001.

3. The applicant denied the charges. Enquiry was conducted and having considered the defence of the



applicant, the Inquiry Officer submitted its report to the Disciplinary Authority. The Disciplinary Authority issued notices to the applicant to submit written defence and the same has been submitted by the applicant. The Disciplinary Authority having considered the defence submitted by the applicant and the enquiry report, imposed penalty of removal from service vide memo dated 10.4.2008. Against the order dated 10.4.2008, the applicant preferred appeal before the Appellate Authority on 16.6.2008 raising all objections which are raised in this OA. The Appellate Authority having considered the averments made in the appeal of the applicant rejected the same vide memo dated 2.1.2009 against which the applicant preferred revision petition on 24.2.2009. The Revising Authority upheld the order passed by the Disciplinary Authority as well as the Appellate Authority and rejected the revision petition vide order dated 21.1.2010.

4. Aggrieved and dis-satisfied with the aforesaid orders passed by the Disciplinary Authority, Appellate Authority and Revising Authority, the applicant preferred this OA on the ground that the objections raised by the applicant before the Inquiry Officer has not been properly considered and the Disciplinary Authority having considered the report submitted by the Inquiry

(14)

Officer imposed penalty upon the applicant. The Inquiry Officer relied upon the documents not testified by the authors as only one witness Shri Ram Babu Sharma was produced by the prosecution and this witness cannot testify the documents as listed with the charge memo. Thus, the inquiry proceedings are against the procedure and the same is not sustainable in the eyes of law and deserves to be quashed and set-aside.

5. It is also challenged on the ground that the Disciplinary Authority is not competent to pass punishment order of removal from service as the punishment of removal from service is not provided under Rule 9 of GDS (Conduct and Employment) Rules, therefore, action of the respondents is contrary to rules. Learned counsel appearing for the applicant submitted that the documents submitted by the applicant with regard to performing duties as Branch Postmaster and the statement of defence witnesses have not been considered and arbitrarily it is held that the applicant has joined service elsewhere without resigning from the service as EDBPM, therefore, the order passed by Disciplinary Authority, Appellate Authority and Revising Authority are liable to be quashed and set aside.



6. On the contrary, the learned counsel appearing for the respondents strongly controverted the submissions made on behalf of the applicant and submitted that the Postmaster, Bundi HPO vide letter dated 27.8.2004 informed respondent No.4 that the applicant is working as part time Casual Labourer in Sugar Factory, Keshoraipatan and have accepted employment as Gram Sevak with the State Govt, Upon receipt of the aforesaid letter, the Sub .Divisional Inspector (Postal) Bundi (East) got enquired the matter and submitted his enquiry report vide letter dated 13.1.2005. The Sub Divisional Inspector (Postal) also recorded statement of other persons during the enquiry. Not only this, the applicant in his statement dated 6.1.2005 recorded during the enquiry was requested to release his pay from August, 2004, therefore, the Postmaster Bundi HPO was directed to intimate the reason of withholding the allowance of the applicant. The Postmaster Bundi vide his letter dated 27.1.2005 informed that the applicant has accepted employment as Gram Sevak with the State Government. In such eventuality, the case was again reinvestigated through Inspector Post (PG), Tonk who has submitted enquiry report vide letter dated 16.3.2005 which reveals that the applicant was employed on the post of Gram Sachiv, Chandesara (Mavli) in Udaipur District and work of GDSBPM was being managed by his son Shri Shiv Prakash Shringi.



7. It is also stated that the place where the applicant was working as Gram Sachiv is 200 Kms away from the place where he was posted as GDSBPM. In support of his submissions, the respondents also placed documents to show that the SPO, Tonk Division, Tonk is competent to initiate disciplinary proceedings as he was the appointing authority and vide Ann.R/1 dated 31.10.1988 the applicant was appointed by the Superintendent of Post Offices, Tonk Dn. Tonk. Vide Ann.R/3/1, the statement of the applicant is also placed where the applicant has admitted that he had joined service elsewhere and also discharging duties of GDSBPM. The son of the applicant in his statement (Ann.R 5/3) clearly stated that he is working in placed of his father and his father is working in the Government Department.

8. With regard to the argument advanced on behalf of the applicant that there is no penalty of removal from service under the rules, the respondents have referred to GDS (Conduct and Employment) Rules, 2001 and more particularly Rule 9 which deals with nature of penalties. As per Rule 9(v) there is a penalty of removal from employment and under Rule 9(vi) penalty of dismissal from employment is provided. After referring the entire material placed along with reply, the learned counsel appearing

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for the respondents submitted that no case of interference is made out by this Tribunal.

9. We have heard the rival submissions of the respective parties and carefully perused the material available on record as well as the relevant rules and the submissions advance on behalf of the respective parties. With regard to the question whether respondent No.4 is competent to impose penalty or not, as discussed hereinabove and as submitted by the respondents referring appointment letter of the applicant dated 31.10.1988 (Ann.R/1), the appointment of the applicant was made by the SPO, Tonk Dn. Tonk on 31.10.88 and being appointing authority, the SPO Tonk is competent to pass penalty order and to impose penalty at the relevant point of time. Thus, we do not agree with the submissions made on behalf of the applicant that respondent No.4 is not competent to impose penalty.

10. Further, with regard to the concealment of fact regarding willful absence is concerned, the same is admitted by the applicant as well as by his son and also evident by the documents submitted by the respondents along with their reply and, thus, the respondents have able to prove the fact that the applicant has been given appointment as Gram Sachiv in



Panchayati Raj Department. It is also not disputed that the place of employment in the Government Department is 200 Kms. away from the place where the applicant was posted as EDBPM and without resignation from the post, the applicant has joined even without informing the official respondents, which is in contravention of GDS (Conduct and Employment) Rules, 2001. Therefore, the respondents conducted enquiry and after considering the enquiry report and representation of the applicant, the Disciplinary Authority after following the procedure prescribed under Rule 10 has rightly imposed penalty of removal from service and the same was upheld by the Appellate Authority. The Revising Authority further upheld the order passed by the Disciplinary Authority and the Appellate Authority and given concurrent findings. Thus, in our view, the applicant utterly failed to show any reason for interference of the Tribunal with the concurrent findings given by the Disciplinary Authority, Appellate Authority and the Revising Authority.

11. Consequently, the OA being bereft of merit fails and the same is hereby dismissed with no order as to costs.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member

R/