

OA 267/2012

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 267/2012

DATE OF ORDER : 05.01.2015

CORAM :

**HON'BLE MR. B.V. RAO, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISITRATIVE MEMBER**

Bhanwar Lal son of Late Shri Jhoota Ram, by caste Dhanak, aged about 54 years, resident of Village and Post Bassi, Naga Via Kalwar, District Jaipur. Presently removed from the post of Gramin Dak Sewak, Branch Post Master, Bassi Naga, District, Jaipur.

... Applicant

(By Advocate: Mr. P.N. Jatti)

Versus

1. Union of India through the Secretary to the Government of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Superintendent Post Offices, Jaipur MFL Division, Jaipur, Shastri Nagar, Jaipur.

... Respondents

(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

The applicant has filed the present OA praying for the following reliefs:-

- "(i) That by a suitable writ/order or the directions the impugned order vide Annexure A/1 dated 04.11.2011, charge memo dated 13.09.2010 vide Annexure A/3 and order dated 30.12.2010 vide Annexure A/4 be quashed and set aside.
- (ii) Any other relief which the Hon'ble Bench deems fit."

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the applicant while serving as Gramin Dak Sevak was served with charge memorandum

Anil Kumar

dated 13.09.2010 (Annexure A/3). After the service of the charge memorandum, inquiry was not conducted properly and a punishment of removal has been awarded vide order dated 30.12.2010 (Annexure A/4). The applicant being aggrieved by the penalty order, filed an appeal but the appeal has not been considered properly and it has been rejected vide order dated 04.11.2011 (Annexure A/1) by the Appellate Authority.

3. In the charge Memorandum, it was alleged that an amount of Rs.7,289/- each of three persons was withdrawn by the applicant by forged thumb impression/signatures on 22.03.2010, 27.03.2010 and on 27.03.2010 respectively which subsequently paid to the depositor on 16.04.2010 and the thumb impression/signatures of the depositors was obtained on a plain paper after affixing the Revenue Stamps. Thus the applicant violated the provisions of Rule 134(iv) of Branch Post Office Rules VI Edition and thereby also violated the provisions of Rule 21 of Gramin Dak Sevak (Conduct & Employment) Rules, 2001. The applicant failed to maintain the absolute integrity and devotion to duty.

4. The learned counsel for the applicant submitted that from the Memorandum of charge, it is clear that money was withdrawn on 22.03.2010, 27.03.2010 and on 27.03.2010 and was paid to the depositor on 16.04.2010 and their signatures/thumb impression were obtained. Thus the money was paid to the depositor in one case after 22 days and two

Anil Kumar

other cases after 19 days. Therefore, there was neither misuse of money nor department was put to any financial loss.

5. The learned counsel for the applicant also stated that the applicant did not put any forged thumb impression/signature. The money was correctly withdrawn and delivered to the depositors.

6. In appeal, the applicant has mentioned all the facts and circumstances but the Appellate Authority did not consider the appeal in the correct perspective and rejected the same. Therefore, he prayed that the charge memo dated 13.09.2010 (Annexure A/3), order of removal passed by the Disciplinary Authority dated 30.12.2010 (Annexure A/4) and order of the Appellate Authority dated 04.11.2011 (Annexure A/1) be quashed and set aside.

7. On the other hand, the respondents have submitted their written reply. In the written reply, the respondents have stated that the applicant while working as GDSBPM (Bassi Naga) was put off duty under Rule 12 of the GDS (Conduct and Employment) Rules, 2001 due to contemplation of disciplinary proceedings against him. Thereafter a charge sheet was issued to him vide Memo dated 13.09.2010. The charge against the applicant was that he put the forged thumb impression and forged signature of the depositors in RD Account No. 5010854, 5010855 and 5010876 on 22.03.2010, 27.03.2010 and 27.03.2010 and took payment of Rs.7289/- in each account. After that, he took the signature of the depositor on plain

Arul Kumar

paper affixing revenue ticket and made the payment to them on 16.04.2010. As such the applicant violated the provisions of Rule 134 (IV) of BO Rules 6th Edition and Rule 21 of GDS (Conduct & Employment) Rules 2001. The charge sheet was issued to the applicant on 13.09.2010, which was received by him on 14.09.2010.

8. The applicant did not file any reply to the charge sheet, therefore, the Disciplinary Authority decided to conduct oral/detailed inquiry into the matter and appointed Shri Sitaram Panchal, the then Assistant Superintendent (Outside) as Inquiry Officer and Shri S.S. Shekhawat as Presenting Officer.

9. The applicant on the date of the first hearing of the Inquiry on 10.10.2010 has willfully admitted the charges alleged against him without any force before the Inquiry Officer by submitting his self written statement dated 10.12.2010 (Annexure R/1) in presence of Presenting Officer.

10. The learned counsel for the respondents submitted that as the applicant admitted the charges before the Inquiry Officer, there was no need to conduct oral/detailed inquiry to prove the charges. The Inquiry Officer submitted his inquiry report vide letter dated 12.10.2010 (Annexure R/2).

11. That the report of Inquiry Officer was received in the office of respondent no. 3 and the same was sent to the applicant on 16.12.2010 (Annexure R/3) to submit his

Anil Kumar

representation within ten days. The representation of the applicant dated 22.12.2010 (Annexure R/4) was received in the office of respondent no. 3, Superintendent Post Offices, Jaipur MFL Dn, Jaipur, on 24.12.2010 in which he has clearly admitted his charges/offences and submitted that due to indigent condition of the family such omission has been made by him and such practice will not be made in future.

12. That the Disciplinary Authority after giving due consideration to the representation of the applicant, admission of the charges and gravity of charges, as the charges are relating to the misappropriation of money which create doubt on the honesty and integrity of applicant, vide order dated 30.12.2010 awarded penalty of removal (Annexure A/4).

13. That the applicant preferred an appeal against the above referred punishment order to the Appellate Authority which was rejected by the Appellate Authority vide order dated 04.11.2011 (Annexure A/1). The order of the Appellate Authority is the well reasoned and speaking order which has been passed after considering the relevant record and the grounds taken by the applicant in the appeal.

14. The learned counsel for the respondents argued that thus in view of the above, it is clear that the applicant himself by self written statement and in the representation has admitted the charges against him willfully without any pressure, therefore, the charges against him are proved. As per the law laid down by the Hon'ble Supreme Court in the case of

Anil Kumar

**Chairman Cum Managing Director, Coal India Limited &
Another vs. Mukul Kumar Chaudhary & Others, 2009 15**

SCC 620, in Para 13 has held that "In a case such as the present one where the delinquent admitted the charges, no scope is left to differ with the conclusions arrived at by the Inquiry Officer above the proof of charges." Further, looking to the seriousness of charges, as the same are regarding misappropriation of money and loss of confidence/trust, the penalty awarded to him by the Disciplinary Authority and upheld by the Appellate Authority is commensurate with the charges and the same is legal and justified.

15. Thus the learned counsel for the respondents stated that there is no merit in the OA and it deserves to be dismissed.

16. The applicant has also filed the rejoinder.

17. Heard the learned counsel for the parties, perused the documents on record and the case law as referred to by the learned counsel for the respondents.

18. The learned counsel for the applicant reiterated the facts as stated in the OA and further submitted that as per the provisions of Rule 10 of GDS (Conduct & Employment) Rules 2001 which lays down the procedure for imposing a penalty, it has been clearly laid down that the penalty of dismissal/removal from employment shall not be passed except after an inquiry in which the employee has been informed of the charges against him and has been given a

Anil Kumar

reasonable opportunity of being heard in respect of those charges. Whereas in the present case, no proper inquiry has been conducted by the respondents and neither copy of the inquiry report has been provided to the applicant. Therefore, the penalty orders dated 30.12.2010 (Annexure A/4) and order passed by the Appellate Authority dated 04.11.2011 (Annexure A/1) are illegal and needs to be quashed and set aside. The applicant paid the money to the depositor within less than one month of withdrawing the amount. Thus the applicant has neither misused the money nor there has been any loss to the department. Therefore, no charge has been made out against the applicant.

19. On the other hand, the learned counsel for the respondents submitted that the charge sheet was issued to the applicant according to the rules and when he did not submit any reply to the charge sheet, the Disciplinary Authority ordered an inquiry and also appointed a Presenting Officer. That on the first day of the inquiry, the applicant himself admitted the charge against him on 10.12.2010 (Annexure R/1). Thus on the basis of admission of charge by the applicant, the Inquiry Officer came to the conclusion that there was no need to continue with inquiry any further. That the order sheet dated 10.12.2010 has also been signed by the applicant. A copy of the inquiry report was sent to the applicant vide letter dated 16.12.2010 (Annexure R/3) and the applicant submitted his reply to the Inquiry report vide his letter dated 22.12.2010 (Annexure R/4). Even in this reply, he

Anil Kumar

OA 267/2012

has admitted his charges and prayed that due to indigent condition and family circumstances, such omission has been made by him and such practice will not be followed in future.

After considering the representation of the applicant, admission of the charges and the gravity of the charges, the Disciplinary Authority imposed the penalty of removal from service order dated 30.12.2010 (Annexure A/4). Thereafter the applicant preferred an appeal, which was duly considered by the Appellate Authority and his appeal was rejected by a speaking order dated 04.11.2011 (Annexure A/1). Thus there is no merit in the OA and it should be dismissed.

20. Having heard the rival submission of the parties and after perusal of the documents on record and the case law referred to by the learned counsel for the respondents, we are of the view that the applicant has failed to make out any case for the interference by the Tribunal. The applicant was served with the charge sheet dated 13.09.2010 (Annexure A/3) but he did not submit any reply to the charge sheet. Thereafter the Disciplinary Authority ordered an inquiry and appointed an Inquiry Officer and also a Presenting Officer. The applicant appeared before the Inquiry Officer and the Presenting Officer and on the first date of the inquiry itself admitted the charges leveled against him. His statement dated 10.12.2010 is at Annexure R/1. In view of his admission, Inquiry Officer came to the conclusion that there was no need to continue with inquiry any further and he recorded his finding on 12.10.2010 (Annexure R/2). On the order sheet dated 10.12.2010, the

Anil Kumar.

applicant has also signed. A copy of the inquiry report was sent to the applicant vide letter dated 16.12.2010 (Annexure R/3).

The applicant submitted his reply vide letter dated 22.12.2010 (Annexure R/4) in which he has clearly stated that he has already accepted his mistake. This occurred due to poor financial condition of his family. That he will not commit such mistake in future and he prayed for being pardoned for the mistake committed by him. Thus we do not find any irregularity/infirmity in the procedure followed by the respondents either in issuing the charge sheet to the applicant or in conducting the inquiry. There has been no violation of the principles of natural justice on the basis of confession of the applicant and on the basis of material available on record including the inquiry report. The Disciplinary Authority looking into the gravity of the charges passed the order of penalty of removal from service dated 30.12.2010 (Annexure A/4). We have perused the order of the Disciplinary Authority and we do not find any illegality/infirmity in this order. The applicant has failed to make out any ground for the interference by this Tribunal in the order passed by the Disciplinary Authority dated 30.12.2010 (Annexure A/4).

21. Being aggrieved by the penalty order, the applicant filed an appeal before the Appellate Authority. The Appellate Authority after considering the appeal and material on record passed a reasoned & speaking order dated 04.11.2011 (Annexure A/1). We do not find any illegality/infirmity in the order passed by the Appellate Authority.

Anil Kumar

22. The Hon'ble Supreme Court in the case of **Chairman-Cum-Managing Director & Another, Coal India Limited vs. Mukul Kumar Chaudhary & Others, 2009 15 SCC 620**, as referred to by the learned counsel for the respondents has held in Para 13 of the judgment that "In a case such as present one where the delinquent admitted the charges, no scope is left to differ with the conclusions arrived at by the Inquiry Officer about proof of charges." Even in this case, the applicant has admitted his charges. Hence the Inquiry Officer came to the conclusion that there was no need to further proceed with the inquiry. A copy of that inquiry report was duly served to the applicant. If he had any grievance then he should have represented against the report of the Inquiry Officer but the applicant in his reply to the inquiry report has again admitted the allegation against him and prayed for a pardon vide his letter dated 22.12.2010 (Annexure R/4). Thus the ratio laid down by the Hon'ble Supreme Court in the case of Chairman-Cum-Managing Director, Coal India Limited & Another vs. Mukul Kumar Chaudhary & Others (Supra) is squarely applicable under the facts & circumstances of the present OA.

23. Thus we do not find any illegality either in the issuance of the charge memo dated 13.09.2010 (Annexure A/3), report of the Inquiry Officer dated 12.10.2010 (Annexure R/2), order passed by the Disciplinary Authority dated 30.12.2010 (Annexure A/4) and the order passed by the Appellate Authority dated 04.11.2011 (Annexure A/1).

Anil Kumar

24. Consequently the OA being bereft of merit is dismissed with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

B.V. Rao
(B.V. Rao)
Member (J)

Abdul