

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

(14)

ORDERS OF THE BENCH

Date of Order: 09.09.2013

OA No. 311/2012

Mr. P.N. Jatti, counsel for applicant.
Mr. Mukesh Agarwal, counsel for respondents.

Heard learned counsel for the parties.

Learned counsel for the respondents is directed to produce the relevant record of the case before this court on the next date of hearing.

Put up the matter on 16.09.2013 for further hearing.

Certified copy of this order be made available to the learned counsel for the respondents.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat

16.09.2013

OA No. 311/2012

Mr. P.N. Jatti, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

Heard.

OA is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar

[Anil Kumar]
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 311/2012

DATE OF ORDER: 16.09.2013

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

P.D. Yogi S/o late Shri Nanag Ram Yogi, by caste Yogi, aged about 51 years, R/o Village and Post Kaladera, District Jaipur, presently working as Asst. Post Master, Jaipur General Post Office, Jaipur.

...Applicant

Mr. P.N. Jatti, counsel for applicant.

VERSUS

1. Union of India through the Secretary to the Govt. of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-7.
3. Senior Superintendent Post Offices, JP Division, Jaipur.
4. Senior Post Master, Jaipur General Post Office, Jaipur.

...Respondents

Mr. Mukesh Agarwal, counsel for respondents.

ORDER (ORAL)

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

- 8.1 That by a suitable writ/order or the direction the impugned order vide Annexure A/1 dated 6/6/2011 and order vide Annexure A/2 dated 9/2/2011 be quashed and set aside as it is belated charge sheet after a long time of four years.
- 8.2 That the recovery order for Rs. 1624/- per month be stayed upto the decision of the OA.
- 8.3 That the amount recovered in the installments of Rs. 1624 per month from July 2011 be refunded with a justified interest.

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8.4 That the punishment of stopping the increment be allowed and all the money of increment with effect from 1/7/2011 be paid to the applicant.

8.5 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 was working as Sub Post Master, Kotputli. He allowed a withdrawal of Rs. 47,000/- from the Recurring Deposit (RD) of an individual. The transaction was made by the clerk concerned to a right depositor.

3. Learned counsel for the applicant submitted that the payment of Rs. 47,000/- from the Post Office to the depositor was paid on 06.10.2006 whereas the applicant has been served a charge memo on 02.02.2011 after a gap of more than four years. No reason has been mentioned in the charge memo for serving the charge memo so late. Therefore, the charge memo dated 02.02.2011 (Annexure A/3), the punishment order dated 05.05.2011 (Annexure A/1) (wrongly mentioned as 06.06.2011 in the OA) and the appellate order dated 09.12.2011 (Annexure A/2) be quashed and set aside.

4. Learned counsel for the applicant further submitted that Recurring Deposit Account No. 48736 was opened on 28.11.1998 and the first withdrawal of Rs. 13,000/- from this account was allowed on 03.02.2001.

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5. Learned counsel for the applicant also submitted that another withdrawal of Rs. 47,000/- from the same Recurring Deposit Account was allowed on 06.10.2006.

6. Learned counsel for the applicant argued that according to the rules, one withdrawal is allowed in the tenure of five years of the RD account. Since the Recurring Deposit Account was opened on 28.11.1998, therefore, first withdrawal was made on 03.02.2001. The first term of five years of the Recurring Deposit Account was complete in 2003. The depositor renewed it after 2003 and, therefore, one more withdrawal was allowed on 06.10.2006 during the second tenure of the Recurring Deposit Account. The withdrawal of Rs. 47,000/- is as per Rule 113 (i) of the Post Office Savings Bank Manual (Volume-I). The respondents have not considered the matter properly and, therefore, he has been wrongly punished. He further submitted that there is no loss to the department due to any mistake of the applicant. He submitted that the charge memo dated 02.02.2011 (Annexure A/3), the penalty order dated 05.05.2011 (Annexure A/1) and the appellate order dated 09.12.2011 (Annexure A/2) be quashed and set aside.

7. On the contrary, learned counsel for the respondents submitted that the applicant made second half withdrawal of Rs. 47,000/- in Kotputli RD Account No. 48736 in the name of Smt. Anita Gupta on 06.10.2006 in violation of rules as one half withdrawal of Rs. 13,000/- was already made on 03.02.2001 from this Recurring Deposit Account. By this act of the

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applicant, the department has sustained a loss of Rs. 32, 481/-.

As per the provision of Rule 113 (i) of the Post Office Savings Bank Manual (Volume-I), only one half withdrawal is allowed from a Recurring Deposit Account.

8. Learned counsel for the respondents further submitted that the applicant was charge sheeted under Rule 16 of CCS (CCA) Rules, 1965 vide memo dated 02.02.2011. The applicant was permitted to inspect the relevant documents on his request. The applicant submitted his representation dated 03.03.2011. The Disciplinary Authority, after considering the representation of the applicant and relevant record carefully & dispassionately, awarded the penalty, which reads as under: -

"(i). Recovery of Rs. 16240/- in ten installments each of Rs. 1624/-

(ii) Next one increment of the applicant in Pay Band 2 in pay scale 9300-34800 – Grade Pay Rs. 4600/- due on 1-7-2011 may be withheld for 2 years without any cumulative effect."

9. Learned counsel for the respondents also submitted that being aggrieved with the punishment order, the applicant preferred an appeal. The Appellate Authority, after considering all the grounds raised by the applicant in his appeal, relevant record and other facts and circumstances, rejected the appeal of the applicant vide memo dated 09.12.2011 (Annexure A/2), therefore, the penalty has been imposed upon the applicant as per rules and, hence, the Original Application has no merit and is liable to be dismissed.

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10. Learned counsel for the respondents argued that the irregular second half withdrawal was made by the clerk in supervision of the applicant. Thus, the applicant cannot escape himself from his liability by saying that the transaction was made by the clerk.

11. Learned counsel for the respondents further argued that there is no time limit for serving the charge-sheet. The delay in the charge-sheet is due to justified reasons and, as such, on the ground of delay, the charge-sheet cannot be quashed.

12. Learned counsel for the respondents also argued that the applicant has made second half withdrawal of Rs. 47000/- in Kotputli RD Account No. 48736 on 06.10.2006. However, it is submitted that 1st half withdrawal of Rs. 13000/- was already allowed in the account on 03.02.2001 and as per provision of Rule 113 (i) of Post Office Saving Bank Manual Volumen-1, 'withdrawal is restricted to 50 per cent of the balance on the date of application from an account not treated as 'discontinued' once in five years can be allowed after the account has been in operation for at least one year and in all 12 monthly installments have been paid'. After allowing second half withdrawal, the account became DISCONTINUED ACCOUNT, but the department paid full maturity value to the depositor which is Rs. 32481/- more than actual payable amount. As such, department sustained a loss of Rs. 32481/- and half of this amount i.e. Rs. 16240/- was ordered to be recovered from the applicant. Thus, the action of respondents is legal and justified.

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13. Learned counsel for the respondents clarified that only one half withdrawal is allowed from a Recurring Deposit Account. If the Recurring Deposit Account is continued by the depositor beyond the period of five years then he is at liberty to close that account any time without any loss to the depositor, therefore, there is no provision in the rules for a second half withdrawal. Therefore, the Original Application has no merit and it should be dismissed with costs.

14. Heard learned counsel for the parties and perused the documents available on record.

15. It is not disputed between the parties that a second half withdrawal of Rs. 47,000/- was allowed to the depositor when she was already allowed one half withdrawal in the year 2001. Therefore, the short question in the present Original Application is whether the second half withdrawal was according to the provision of rules or not.

16. Rule 113 (i) of the Post Office Savings Bank Manual (Volume-I), which deals with one half withdrawal, reads as under: -

"113(i) Withdrawal restricted to 50 per cent of the balance on the date of application from an account not treated as 'discontinued' once in 5 years can be allowed after the account has been in operation for at least one year and in all 12 monthly installments have been paid."

17. Rule 10 (1) of the Post Office Recurring Deposit Rules, 1981, provides for continuation of Recurring Deposit Account

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beyond maturity period for a further period upto maximum of five years. Rule 10 (2) of the Post Office Recurring Deposit Rules, 1981, provides that an account continued under sub-rule (1) may, at any time, be closed by the depositor and on such closure he shall be entitled to receive repayment of the amount, inclusive of interest, as indicated in the rule.

18. From the perusal of Rule 113 (i) of the Post Office Savings Bank Manual (Volume-I), it is clear that only one half withdrawal of the balance is permissible to a depositor, if he satisfies the conditions as laid down in these rules. There is no other provision in the rules which provides for another half withdrawal in the extended period of Recurring Deposit Account beyond the period of five years.

19. I am in agreement with the averments of the learned counsel for the respondents that since the depositor is allowed to close the Recurring Deposit Account during the extended period of the Recurring Deposit Account beyond the period of five years, therefore, there is no provision for second half withdrawal. If a depositor is in need of money for any reason, he is at liberty to close his/her Recurring Deposit Account in the extended period, which is beyond the first five years of the Recurring Deposit Account.

20. The applicant was given a charge-sheet by the competent authority. The delay in issuing the charge sheet has been explained by the respondents in their written reply and,

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therefore, on the basis of the delay of four years, the charge-sheet cannot be quashed and set aside.

21. The applicant was served with a charge-sheet. He was given an opportunity to inspect the documents required by the applicant. Thereafter, he submitted his representation against the charge-sheet. It was duly considered by the Disciplinary Authority and after considering the representation and other facts and circumstances relevant for the case, the Disciplinary Authority imposed the penalty upon the applicant vide order dated 05.05.2011 (Annexure A/1). I have carefully perused the order passed by the Disciplinary Authority. It is a speaking and reasoned order. I do not find any infirmity or illegality in this order. Therefore, I do not find any reason to interfere with the penalty order passed by the Disciplinary Authority dated 05.05.2011 (Annexure A/1).

22. The applicant, being aggrieved by the penalty order, preferred an appeal before the Appellate Authority. The Appellate Authority considered the appeal of the applicant and rejected the appeal of the applicant vide order dated 09.12.2011 (Annexure A/2). I have carefully perused the order passed by the Appellate Authority. It is a reasoned and speaking order. I do not find any infirmity or illegality in this order. Therefore, I do not find any reason to interfere with the order passed by the Appellate Authority dated 09.12.2011 (Annexure A/2).

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23. Thus, the applicant has failed to make out any case for interference by this Tribunal. Consequently, the Original Application being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

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