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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00195/2015

Thursday, this the 30th day of August, 2018

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

P.R.Krishna Pillai,
GDS MD, Ennakkad P.O.,
Mavelikara Postal Division.
Residing at Parakal House,
Ennakkad – 689 624.

....Applicant

(By Advocate – Mr.Vishnu S Chempazhanthiyil)

V e r s u s

1. The Assistant Superintendent of Post Offices
and Enquiry Authority, Mavelikara North Sub Division,
Mavelikara – 689 010.
2. The Superintendent of Post Offices,
Mavelikara Division, Mavelikara – 689 010.
3. The Postmaster General,
Central Region, Kochi – 682 018.
4. Union of India represented by its Secretary,
Department of Posts, Dak Bhavan, New Delhi.Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC [R])

This Original Application having been heard on 9th August 2018, the
Tribunal on 30th August 2018 delivered the following :

O R D E R

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

O.A.No.180/195/2015 is filed by Shri.P.R.Krishna Pillai, Gramin Dak
Sevak Mail Deliverer (GDS MD for short) aggrieved by penalty of removal
from service imposed upon him, pursuant to proceedings under Rule 10 of

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Department of Posts, GDS (Conduct & Employment) Rules, 2001 and rejection of his appeal and revision by the Appellate Authority and Revisional Authority respectively. The reliefs sought in the O.A are as follows :

1. Call for the records relating to Annexure A-6, Annexure A-8 and Annexure A-10 and set aside Annexure A-6, Annexure A-8 and Annexure A-10.
2. Declare that the penalty of dismissal from service imposed on the applicant vide Annexure A-6 and its confirmation by Annexure A-8 and Annexure A-10 orders of the Appellate and Revisional Authorities respectively is illegal and arbitrary and direct the respondents to treat as if the applicant has continued in service upto 16.8.2014 and grant all consequential benefits including pay allowances, bonus, increment etc.
3. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
4. Award the cost of these proceedings to the applicant.

2. The applicant while working as GDS MD, Ennakkad was issued with a Charge Sheet as per Memorandum No.GDS-MD/SO/3/03-04 dated 23.2.2004. The allegations against the applicant were as follows :

Article - I

That the said P.R.Krishna Pillai, while working as GDSMD Ennakkad, showed Chennai Anna Road P.O. Telegraphic Money Order No.CH 2210 dated 15.2.2003 for Rs.2500 (Two Thousand Five Hundred) payable to Smt.Ammini Amma, Thyethu House, Ennakkad as paid on 18.2.2003 without getting the signature of the payee on the MO form and without effecting payment to the real payee. Sri.P.R.Krishnapillai has thus failed to maintain absolute integrity and devotion to duty and thereby violated Rule 21 of Department of Posts, Gramin Dak Sevaks (Conduct and Employment) Rules, 2001.

Article - II

That the said P.R.Krishna Pillai, while working as GDS MD Ennakkad, showed FPO 803 MO Nos.3698 and 3699 dated 21.2.2003 for Rs.5000 (Five Thousand) each payable to Smt.Deepa Suresh, Arippattusseril, Ennakkad as paid on 3.3.2003 without getting the signature of the payee on the MO forms and without effecting payment to the real payee. Sri.P.R.Krishna Pillai has thus failed to maintain absolute integrity and devotion to duty and thereby violated Rule 21 of Department of Posts GDS (Conduct and Employment) Rules 2001.

Article - III

That the said P.R.Krishna Pillai, while working as GDS MD Ennakkad, showed Khanpur MO No.584 dated 13.2.2003 for Rs.500 (Five Hundred) only payable to Sri.Kamalasan, Nediyath Vadakkethil, Ennakkad as paid on

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17.2.2003 without getting the signature of the payee on the MO form and without effecting payment to the real payee. Sri.P.R.Krishna Pillai has thus failed to maintain absolute integrity and devotion to duty and thereby violated Rule 21 of Department of Posts GDS (Conduct and Employment) Rules 2001.

3. The applicant was put off duty as per order of the 1st respondent dated 15.3.2003 (Annexure A-1). A charge sheet was issued as per Memorandum dated 23.2.2004 (Annexure A-2), inquiry conducted by the 1st respondent and orders were passed removing the applicant from service vide Memo dated 6.11.2006. The appeal filed against the order before the 2nd respondent was rejected as per order dated 30.4.2007. Aggrieved by the same the applicant had moved the 3rd respondent under revision, on the ground that no reasonable opportunity had been given to him to defend the case. The Revisional Authority found merit in the contention raised by the applicant and passed orders setting aside the removal from service. He directed '*denovo*' proceedings against the applicant as per Memo dated 21.1.2008 (Annexure A-3).

4. It is stated that fresh inquiry was conducted against the applicant by the Assistant Superintendent of Post Offices, Mavelikara North Sub Division which was an *ex parte* inquiry and report dated 26.4.2012 was filed (Annexure A-4). The applicant filed his objection to the inquiry report before the Disciplinary Authority on 21.5.2012 (Annexure A-5). He contended therein that the Inquiry Authority had been prejudiced against him in the first instance and the same officer has been entrusted with the conduct of the second inquiry as well. Besides the matter involved an issue dating back nearly ten years and the applicant was unable to remember what

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happened at the relevant time. He further mentioned that due to non payment of eligible ex-gratia leading to shortage of money he was unable to attend the inquiry whereby the proceeding was conducted 'ex parte'.

5. The Disciplinary Authority passed an order on 30.6.2012 accepting the inquiry report which held the applicant guilty of charges and imposed penalty of removal from service with immediate effect. A copy of the proceedings dated 30.6.2012 is at Annexure A-6. Citing various contentions the applicant filed an appeal on 10.9.2012. But the same was rejected as per order dated 29.10.2012 (Annexure A-8). At this point the applicant had approached this Tribunal challenging Annexure A-6 and Annexure A-8 by filing O.A.No.86/2013. However the same was disposed of with liberty to prefer a revision petition as remedy under Rule 19 of GDS (Conduct & Engagement) Rules. Accordingly the applicant filed a revision petition on 30.7.2014 (Annexure A-9) but the 3rd respondent passed an order dated 23.1.2015 rejecting the said revision (Annexure A-10).

6. The applicant maintains that the delay in concluding the proceedings has adversely affected his interest and he was not in a position to remember many things necessary to prove his innocence. Secondly, he has alleged that the Inquiry Authority has been biased against him and he was distressed to see that even the denovo inquiry was entrusted to the very same authority. The denial of eligible ex-gratia due to the applicant had been the result of discrimination and bias and this had prevented him from defending his case whereby the proceedings against him in the inquiry became ex parte.

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7. The respondents have filed reply statement submitting that all procedures had been carefully followed and the applicant had been accorded every opportunity, necessary under the rules. In the first instance the Revisional Authority had remanded the case seeking denovo proceedings in order to give further opportunity to the applicant in terms of fixing date of sittings and intimating the postponement of the sittings at his request. The delay in the proceedings had been due to the non cooperative attitude on the part of the applicant/Defence Assistant as is clear from the report of the Inquiry Officer and the connected documents. There had been a criminal case in progress against the applicant before the JFM Chengannur regarding the irregularities committed by him and there had been delay in getting documents from the Court. This had been duly taken into consideration by the 3rd respondent while seeking denovo proceedings.

8. His contention that there was bias on the part of the Inquiry Authority is a move to circumvent the finding of the inquiry and he had not made any such contention through proper channel. In any case the Revision Authority had considered all aspects and there had been no direction on changing of the Inquiry Authority while ordering denovo proceedings. In so far as paucity of funds being the reason for his non appearance before the Inquiry Authority, he did not bring this to the notice of the Inquiry Authority and chose to be absent without any reason. The argument is merely made in order to evade the inquiry and the Inquiry Officer had no alternative but to declare an exparte inquiry.

9. Shri.Vishnu S Chempazhanthiyil, learned counsel for the applicant and Shri.N.Anilkumar, learned Sr.PCGC for the respondents were heard. All pleadings, documentary and oral, are examined.

10. The Hon'ble Supreme Court in **B.C.Chaturvedi v. Union of India & Ors. reported in 1996 (6) SCC 749** and in **Apparel Export Promotion Council v. A.K.Chopra reported in AIR 1999 SC 625** had come to the conclusion that the scope of review by the judicial authority is very limited and the inquiry authority is the sole judge of the facts so long as there is some legal evidence to substantiate the finding. It is specifically ordered in a catena of judgments that the Tribunal/Courts should not set themselves up as a Disciplinary Authority while considering the rights and wrongs of a departmental proceedings. The only requirement of law is whether the delinquent officer had been given adequate opportunity and whether the allegations against him have been established by such evidence as required. Further in **Union of India v. K.G.Soni reported in 2006 (6) SCC 794** held that the Courts can interfere if the punishment imposed is shockingly disproportionate and direct the Disciplinary Authority/Appellate Authority to consider the penalty imposed. However, here such a set of circumstances do not exist.

11. The Postal Department through its offices, strung across every part of India, offers and administers a huge system of rural saving wherein particularly persons with limited educational and financial background rely on Post Offices for their money related services. Naturally the system

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works on trust and no breach of the same can be allowed as otherwise people will lose their confidence in the entire edifice. Looking at the facts of the case, we are of the view that the punishment imposed is proportionate to the misconduct that has been alleged. The applicant has been given adequate opportunity to defend himself, part of which he has availed and part he refused. We see no merit in the O.A and the same is dismissed accordingly. No costs.

(Dated ts the 30th day of August 2018)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00195/2015

1. **Annexure A1** - A true copy of the order No.PF/PRK dated 15.3.2003 issued by the 1st respondent.
2. **Annexure A2** – A true copy of the Memorandum No.GDS-MD/SO/3/03-04 dated 23.2.2004 issued by the 1st respondent.
3. **Annexure A3** – A true copy of the Memo No.ST/8.6/2007 dated 21.1.2008 issued by the 3rd respondent.
4. **Annexure A4** - A true copy of the enquiry report No.MVKN/14/01/2011 dated 26.4.2012 issued by the 1st respondent.
5. **Annexure A5** - A true copy of the objection dated 21.5.2012 to the 1st respondent.
6. **Annexure A6** - A true copy of the proceedings No.OS/ADA/1/10 dated 30.6.2012 issued by the 1st respondent.
7. **Annexure A7** – A true copy of the appeal dated 10.9.2012 to the 2nd respondent.
8. **Annexure A8** – A true copy of the order No.B/Appeal/6/12 dated 29.10.2012 issued by the 2nd respondent.
9. **Annexure A9** - A true copy of the revision petition dated 30.7.2014 to the 3rd respondent.
10. **Annexure A10** - A true copy of the order No.ST/8-2/2014 dated 23.1.2015 issued by the 3rd respondent.
11. **Annexure A11** - A true copy of the telegram sent on 26.2.2010 along with the cash receipt issued by the BSNL.
12. **Annexure A12** - A true copy of the representation dated 9.7.2010 to the 2nd respondent.
13. **Annexure A13** - A true copy of the representation dated 23.9.2010 to the 2nd respondent.
14. **Annexure A14** - A true copy of the telegram dated 14.10.2010 to the Superintendent of Post Offices along with receipt issued by BSNL.
15. **Annexure R1** - True copy of the letter SPO's MVK F3/3/02-03 dated 14.5.2009 of the 3rd respondent.
16. **Annexure R2** - True copy of the letter No.F3/3/02-03 dated 4.2.2010.
17. **Annexure R3** - True copy of the memo No.VIG/4-4/15/8 dated 29.3.2010.
18. **Annexure R4** - True copy of the order dated 13.3.2006 in O.A.No.789/2003.