

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01645/2015

DATED THIS THE 15th DAY OF SEPTEMBER, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

K. Shanthamurthy,
Aged 61 years,
S/o K.L. Krishnamurthy,
Ex.GDS BPM., N. Kothur BO,
a/w Chinthamani SO,
R/o Shamanna Layout,
Near Railway Station Road,
Chinthamani – 563125,
Kolar District.Applicant

(By Advocate: Shri. B. Venkateshan)

Vs.

1. Union of India,
Represented by the Secretary,
Department of Posts,
Dak Bhavan,
New Delhi – 560001.
2. The Postmaster General,
South Karnataka Region,
Bangalore – 560001.

3. The Sr. Superintendent of Post Offices,
Kolar Division, Kolar – 563102.

4. The ASPOs (Hqrs)
Office of the SSPOs, Kolar Division,
Kolar – 563102. ...Respondents

(By Advocate: Shri J. Bhaskar Reddy, learned Sr. Central Govt. Counsel)

O R D E R (ORAL)

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

The applicant has filed the present OA seeking the following relief:

"This Tribunal be pleased to call for the concerned records, peruse them and set aside the Memos No.F3/8/2013-14, dated 25.03.2015 (Annexure A9), issued by the SSPOs, Kolar, No.SK/STA/9-3/18/2015/11, dated 29.05.2015 (Annexure A12) issued by the Director of Postal Services, SK Region, and Memo No.SK/STA/9-5/03/2015/1, dated 14/17.08.2015 (Annexure A14), issued by the PMG, SK Region, Bangalore, by which the applicant was imposed with the extreme punishment of removal from service and rejection of his appeal and petition, in the interest of justice."

2. The applicant submits that he was working as GDS BPM since 1983.

He was placed under Put Off Duty, vide Memo dated 27.03.2014 (Annexure A2). Thereafter, a disciplinary proceeding was initiated against him under Rule 10 of GDS (Conduct & Engagement) Rules, 2011, and charge memo dated 31.10.2014 (Annexure A3) was issued.

He is primarily charged for making payment of money order to deceased payees thereby exhibiting lack of integrity and devotion duty. The Inquiry was held on the denial of charges and the I.O.

submitted his report holding the charges as proved (Annexure A7). On being communicated the inquiry report, the applicant submitted his representation to the disciplinary authority, who based on the findings of the I.O. that the charges levelled against the applicant was proved, imposed the punishment of 'Removal from Service' vide order dated 25.03.2015 (Annexure A9). The applicant then submitted an appeal to the Director, Postal Services on 28.04.2015, explaining the facts of the case in detail and seeking to review of the penalty order. However, the Appellate Authority did not consider the same and rejected the appeal, vide his order dated 29.05.2015 (Annexure A12). The applicant further submitted a review petition to the Postmaster General, S.K. Region, Bangalore on 10.07.2015, but the Revisional Authority vide its order dated 17.08.2015 dismissed the Petition on similar ground as was taken by the Disciplinary Authority and the Appellate Authority. Hence the present OA.

3. According to the applicant, no private witnesses who had received the MOs and the local politicians named by the applicant and under whose threat and insistence the MOs were paid, had not been summoned as defence witnesses inspite of his request and therefore he was not given proper opportunity to defend himself. The amounts wrongly paid to the heirs of the deceased were under the threat and insistence of the local political leaders and therefore non-consideration of his submissions is unjustified and he is entitled to the

relief sought by him.

4. The respondents submitted a reply statement in which they mentioned that based on a public complaint received against the applicant alleging non-payment of pension money order from Smt. Lakshmamma (Annexure R1), the matter was got inquired into and in the course of such inquiry, cases showing payment of money orders in the names of two deceased payees came to light. The applicant in his written statement dated 26.09.2014 (Annexure R2) and written statement dated 05.09.2014 (Annexure R3), admitted payment of money orders to persons other than actual payees. A disciplinary proceeding under Rule 10 of GDS (C&E) Rules, 2011 was initiated. Inquiry was conducted in which the applicant participated along with an assisting Govt. servant. The Inquiry Officer held the charges as proved. After receiving representation from the applicant, following communication of the inquiry report, the Disciplinary Authority considered the matter and imposed the penalty of removal from engagement vide memo dated 25.03.2015. The appeal dated 28.04.2015 preferred by the applicant was also rejected by the Appellate Authority. The Revision Petition was also rejected by the Revisionary Authority.

5. The respondents submit that the money orders were payable to the payees only except on authorization in the prescribed format. In the

present case, the actual payees were already expired. The applicant admitted in his written statement that he was aware of the death of the payees yet he made payment to the other persons saying that it was done under the threat and insistence of the local political leaders. This cannot be a ground to make wrong payments. Regarding the contention of the applicant that the wrong payees and local politicians were not cited as witnesses and examined, the respondents state that it was open to the applicant to cite them as witnesses on his behalf, but he did not do so. The applicant admitted that the payment of the money order should have been made only to the payees. His assertions of the issue of pressure from local politicians to effect payment of the money orders cannot be considered. He had shown payment of eight more MOs received in the name of late Venkatashami after his death on different dates. The Disciplinary Authority considered the fact of failure of the applicant in accordance with the prescribed rules while passing his order. There is no case of any denial of natural justice. Hence there is no merit in the contention made by the applicant.

6. We have heard learned counsel for the parties. The learned counsel for the applicant reiterated the submissions already made in the OA and submitted that since the applicant had to do so under pressure of local politicians, he should have been given a sympathetic consideration and imposed any other punishment other than removal

from service. The learned counsel for the respondents on the other hand submitted that the entire procedure was conducted as per rules and there is no denial of natural justice. The applicant himself admitted the wrong payment following death of the payee which is not permissible. The ground of doing so under pressure of local politicians does not merit any consideration.

7. We have carefully considered the facts of the case and submissions made by either side. There does not appear to be any dispute to the fact that the applicant had made payments of money orders in the name of deceased payee to other persons which is not permissible under rules. The applicant himself admitted this in his submissions. In the appeal he clearly specified that the amounts paid to the heirs of the deceased payees was under threat of the political leaders of the local area. The very fact that the payment has been made in the name of deceased payee more than once does not give any credence to his contention. We note that the inquiry was conducted as per the procedure laid down in the rules and there was no case of any denial of natural justice. After going through the orders passed by the Disciplinary Authority, the Appellate Authority and the Revisionary Authority, we note that the said orders are quite reasonable and based on the findings during the enquiry as well as the submissions made by the applicant.

8. It is evident that there is no procedural irregularity and the applicant was given all opportunities to defend himself. On considering all facts, we are of the view that the orders passed by the Disciplinary Authority, the Appellate Authority and the Revisionary Authority do not warrant any interference by the Tribunal. Therefore, we hold that the OA is clearly devoid of any merit and is liable to be dismissed. Accordingly, the OA is dismissed. No orders as to costs.

(PRASANNA KUMAR PRADHAN) (JUSICE HARUN UL RASHID)
MEMBER (A) MEMBER (J)

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Annexures referred to by the applicant in OA No.170/01645/2015

Annexure A1: Copy of the Memo No.B/BPM/11-12, dtd.27.2.1985
Annexure A2: Copy of SSPOs Kolar Lr.F3/8/2013-14, dtd.27.3.2014
Annexure A3: Copy of the Memo No.F3/8/13-14, dtd.31.10.2014
Annexure A4: Copy of the applicant's written statement of Defence dtd.12.11.2014
Annexure A5: Copy of Presenting Officer's Brief dtd.27.1.2015
Annexure A6: Copy of applicant's written brief dtd.nil
Annexure A7: Copy of IO's report dtd.9.3.2015
Annexure A8: Copy of the deposition of PW-3, dtd.8.1.2015
Annexure A9: Copy of SSPO's Memo No.F3/8/2013-14, dtd.25.3.2015
Annexure A10: Copy of applicant's representation to SSPOs, Kolar Dvn., dtd.25.3.2015
Annexure A11: Copy of applicant's appeal dtd.28.4.2015 to DPS, SK Region
Annexure A12: Copy of the Memo No.SK/STA/9-3/18/2015/I, dtd.29.5.2015
Annexure A13: Copy of applicant's petition to PMG SK Region dt.10.7.2015

Annexure A14: Copy of the Memo SK/STA/9-5/03/2015/II, dt.14/19.8.2015

Annexures with reply statement:

Annexure R1: Copy of the public complaint dtd.6.3.2014

Annexure R2: Copy of the written statement dtd.26.9.2014 of the applicant

Annexure R3: Copy of the written statement dtd.5.9.2014 of the applicant

Annexure R4: Copy of the Rules for Branch Offices
