

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORGINAL APPLICATION NO.1167 OF 2011

Jabalpur, this Tuesday, the 28th day of August, 2018

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Makhanlal Janghela,
S/o Shri Chhuttanlal Janghela,
Aged about 57 years,
R/o Jaharmau Bamhni Sub Post Office,
District Mandla (MP)-481661

- APPLICANT

(By Advocate – Shri S.K.Nandy)

Versus

1. Union of India through its Secretary,
Ministry of Communication, Department of Post,
Dak Bhawan, Sansad Marg,
New Delhi-110 001

2. Director, Postal Services, Headquarters,
O/o Chief Postmaster General, Madhya Pradesh Circle,
Dak Bhawan, Hoshangabad Road,
Bhopal-462012

3. Senior Superintendent of Post Offices,
Balaghat Division,
Balaghat-481001 (MP)

4. Inspector, Post Offices,
Nainpur Sub Division,
Nainpur, District Mandla (MP)-481661

- RESPONDENTS

(By Advocate – Shri S.K.Mishra)

(Date of reserving the order:11.04.2018)

ORDER

By Navin Tandon, AM-

The applicant is aggrieved by the order of removal passed by the disciplinary authority on the charge that he failed to return the balance amount of Rs.2/-, Rs.3/-, Rs.5/- and Rs.10/- to the account holders.

2. The brief facts of the case are that the applicant was initially appointed as Extra Departmental Agent on 04.02.1978. He was declared surplus and was posted as Extra Departmental Branch Post Master, Jaharmau Bamhni with effect from 08.08.2006. A complaint from depositors regarding short payment of NREGS payment was received by the respondents against the applicant. He was put off duty from 01.10.2009. Thereafter a charge memorandum was issued to him under Rule 10 of the Gramin Dak Sevak (Conduct and Employment) Rules, 2001 on 22.12.2009 (Annexure A-1) alleging short payments of amount to different account holders. The applicant submitted his reply to the charge sheet on 05.01.2010. Shri J.K.Kawde and Shri S.K.Thakre were appointed as enquiry officer and Presenting Officer respectively on 15.01.2010 (Annexure A-4 colly.). On the first day of proceedings the applicant admitted the charge unconditionally in writing and requested to close the enquiry. Accordingly, the enquiry officer submitted his report on 03.04.2010 (Annexure A-5) and a copy of which was served upon the

applicant. The applicant submitted his representation on 22.04.2010. The disciplinary authority after considering the report of the applicant as well as the applicant's representation passed order dated 30.04.2010 (Annexure A-6) imposing upon the applicant penalty of removal from service. The applicant feeling aggrieved with the punishment order preferred an appeal on 31.05.2010 (Annexure A-7). In the appeal he submitted that he was supplied enquiry report of another person Sri Lallu Singh Nagesh. The appellate authority vide order dated 17.02.2011 (Annexure A-8) remanded the matter back to the disciplinary authority ordering him to supply the correct enquiry report to the applicant. Thereafter, the disciplinary authority again imposed upon the penalty of removal from service vide his order dated 31.3.2011 (Annexure A-2). The applicant feeling aggrieved with the punishment order preferred a detailed appeal to the appellate authority on 25.4.2011 (Annexure A-10). The appellate authority vide his order dated 08.09.2011 (Annexure A-3) rejected his appeal.

3. The applicant has prayed for the following reliefs in this Original Application:-

“(i) Summon the entire relevant record from the respondents for its kind perusal;

- (ii)** Set aside the impugned charge-sheet dated 22.12.2009 Annexure A-1, the punishment order dated 30.04.2010 Annexure A/2 and appellate order dated 8.9.2011 Annexure A/3 respectively;
- (iii)** Consequently command the respondents to reinstate the applicant in service as if the impugned orders are never passed;
- (iv)** Any other order/direction may also be passed.
- (v)** Award cost of the litigation to the applicant".

4. The case of the applicant is that the charge levelled against him was only that he failed to return the balance amount of Rs.2/-, 3/-, 5/-, and 10/- to the account holders while making payments towards NREGS scheme. Since he had admitted the charge the enquiry officer without conducting the enquiry submitted his report, therefore, as such no enquiry was conducted. The impugned charge-sheet itself is defective in nature as the entire action was taken at the instance of the complaint made by some of accounts holders but they were not called in the departmental enquiry to adduce evidence against the applicant. He has stated that only because of the problem of "chute/khulle" of Rs.2/-, 3/-, 5/- & 10/- these complaints were made. Still the harsh penalty of removal from service was imposed upon him.

5. The respondents have submitted that the applicant has admitted the charges unconditionally hence the plea of defective enquiry as stated by him cannot be accepted. The copies of documents and list of witnesses relied upon in the memo of charge were supplied to the applicant along

with the charge sheet. In his defence statement dated 05.01.2010 submitted against the memo of charge dated 22.12.2009, the applicant has admitted all charges, even then with a view to provide him a chance it was decided to hold detailed enquiry. Enquiry officer and presenting officer were appointed. During first day of enquiry proceedings on 15.03.2010 (Annexure R-1), the applicant submitted written request admitted all charges unconditionally and making request to close the enquiry. Accepting his request the enquiry was closed. The enquiry officer submitted his report against the applicant. Show cause notice along with enquiry report was sent to the applicant requiring him to file reply. The applicant submitted representation stating that he has already admitted the charges requesting that he may be excused. Considering the nature of charge, material against the applicant and unconditional admission of charges, the disciplinary authority awarded the punishment to the applicant.

6. Heard the learned counsel of parties and carefully perused the pleadings of the respective parties and the documents annexed therewith

7. The Hon'ble Supreme Court in the matters of ***B.C. Chaturvedi Vs. Union of India***, (1995) 6 SCC 749 has held in para 12 as under:

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment

and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.”

8. In the instant case we find that a departmental enquiry was duly conducted against the applicant, wherein the applicant had accepted his guilt. The enquiry officer held the charge as proved against the applicant. A copy of the enquiry report was duly supplied to him asking him to submit his representation and after duly considering the applicant's representation the disciplinary authority passed the order. The applicant has not at all pointed out any illegality or irregularity in the conduct of the departmental enquiry warranting our interference. The

principles of natural justice were also duly complied with by the respondents during the course of departmental enquiry. Thus, under the powers of judicial review we can not act as appellate authority to reappreciate the evidence and to arrive at our own independent findings on the evidence.

9. The Hon'ble Supreme Court in the matters of *Regional Manager*,

U.P. SRTC Vs. Hoti Lal (2003) 3 SCC 605 has observed as under:

“If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. *Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court do not appear to be proper. We set aside the same and restore order of the learned Single Judge upholding the order of dismissal.*”

(emphasis supplied by us)

10. In the instant case the applicant was holding the post of Branch Post Master and was entrusted to deal with public money. Therefore, he was required to maintain the highest degree of integrity and trustworthiness while performing his duties. Since the applicant has failed to perform his duties with highest degree of integrity and complaints from public were received against him, the respondents have initiated action against him and after holding enquiry the competent authorities have

passed the impugned orders. We do not find any illegality or irregularity in the orders passed by the respondent-authorities. We are fortified in our view by the decision of the Hon'ble Supreme Court in the matters of ***Hoti Lal*** (supra).

11. Accordingly, we do not find any merit in this Original Application. The same deserves to be and is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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