

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORIGINAL APPLICATION NO. 200/00199/2015

Jabalpur, this Monday, the 30th day of July, 2018

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

Julius Lakra, Son of Shri Eliyas Lakra, Aged about 45 years,
Terminated from the post of Sub Post Master,
District Raisen, Resident of Teachers Colony,
Udaypura, District Raisen (M.P.) PIN 464770 **- APPLICANT**

(By Advocate – Shri Ajay Ojha)

Versus

1. Union of India through Secretary, Department of Post,
Sansad Marg, New Delhi (India)-110 001
2. Chief Post Master General, Madhya Pradesh Parimandal,
Bhopal (M.P.)-462013
3. Director Postal Services (Head Quarter), Madhya Pradesh
Parimandal, Bhopal (M.P.)-462013
4. Superintendent of Post Office, Vidisha Division,
Vidisha (M.P.)-464001 **- RESPONDENTS**

(By Advocate – Shri S.K.Mishra)
(Date of reserving the order: 26.07.2018)

ORDER

By Navin Tandon, AM-

The applicant is aggrieved by imposition of penalty of removal from service for committing fraud of government money by forged withdrawals from different saving bank and recurring deposit accounts while working as Sub Post Master Deori/ Panjra SO District Raisen.

2. The brief facts as stated by the applicant are that he was appointed as Postal Assistant vide order dated 07.07.1995 (Annexure A-1). He was served with a charge sheet dated 27.10.2010 (Annexure A-2) for committing financial irregularities. The applicant submitted his reply on 11.11.2010. The enquiry officer conducted the enquiry and submitted his report dated 23.11.2011 (Annexure A-4). A copy of the enquiry report was served upon the applicant. The applicant submitted his defence/representation (Annexure A-5). The disciplinary authority vide order dated 11.06.2012 (Annexure A-6) imposed the penalty of removal from service upon the applicant. The appeal dated 09.07.2012 (Annexure A-7) submitted by the applicant against the order of removal was dismissed vide order dated 17.06.2013 (Annexure A-8). Thereafter, the applicant preferred a revision dated 17.07.2013 (Annexure A-9), which was also dismissed by the Chief Post Master General, Bhopal vide order dated 28.07.2014 (Annexure A-10). The applicant submits that the mistake is bona fide and is liable to be condoned on humanitarian consideration.

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

“8. (i) This Hon’ble Tribunal may kindly be pleased to quash the order dated 11.06.2012 (Annexure A-6), passed by the respondent no.4, as also the order dated 17.06.2013 (Annexure A-8), passed by

the respondent no.3, and the order dated 28.07.2014 (Annexure A-10) passed by respondent no.2 in the interest of justice.

8.(ii) *This Hon'ble Tribunal may graciously be pleased to reinstate the applicant in service with all consequential benefits.*

8.(iii) *Any other relief which this Hon'ble Tribunal deems fit and proper may also be awarded in favour of the applicant and allow the petition with cost, in the interest of justice."*

4. The respondents in their reply have submitted that the penalty of removal was imposed upon the applicant because of committing fraud of government money to the tune of Rs.1,58,122/- by forged withdrawals from different saving bank and recurring deposit accounts while working as Sub Post Master Deori District Raisen, and committing fraud of Rs.1,17,618/- in SB Accounts, while working as Sub Postmaster Panjra SO District Raisen. On detecting the fraud and after preliminary enquiry, the applicant was suspended on 15.01.2010. He was issued charge sheet under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as 'the **CCS(CCA)Rules**') vide memo dated 27.10.2010. The charges levelled against the applicant were very specific and detailed. The applicant submitted his reply dated 11.11.2010 denying the allegation. Being dissatisfied with the reply, the disciplinary authority decided to conduct detailed enquiry as provided under the CCS(CCA) Rules. The enquiry officer as well as presenting officer were appointed to conduct the enquiry. The enquiry was

conducted as per the rules observing the principles of natural justice. The applicant was provided sufficient opportunity at every stage of enquiry. The enquiry officer submitted its report with the conclusion that charges found established. The disciplinary authority was in agreement with the findings of the enquiry officer. A copy of the enquiry report was duly supplied to the applicant granting him an opportunity to submit his representation. The applicant submitted his representation (Annexure A-5) against the enquiry report. Thereafter, the disciplinary authority, after examination of all materials, vide order dated 11.06.2012 (Annexure A-6) imposed upon the applicant penalty of removal from service. The applicant's appeal and petition were duly considered and dismissed by passing detailed and reasoned orders.

5. The applicant has not filed any rejoinder controverting the averments made by the respondents in their reply.

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

7. The learned counsel for the applicant vehemently argued that the penalty of removal from service imposed upon the applicant is not commensurate with the charges levelled against him, as on similar set of

charges other employees were only dealt with minor penalty of different kinds. He further submits that in the enquiry conducted against one Shri Balwant Singh Raghuwanshi on similar set of charges, he was only dealt with minor penalty (Annexure A-11). However, in the case of the applicant the authorities decided to impose him the major penalty of removal, which is highly disproportionate.

8. On the other hand, the learned counsel for the respondents submitted that the applicant cannot claim parity with Bhagwat Singh Raghuwanshi. Shri Bhagwat Singh Raghuwanshi was a Gramin Dak Sevak and it was not his duty to deal with the financial transaction or monitor the financial transaction. The applicant was a departmental employee, he was in charge of the office and responsible to deal with and monitor the financial transactions. Thus, the applicant being main offender has been issued charge sheet for major penalty as he has committed the fraud. The subsidiary offenders responsible for contributory negligence in discharging their duty were issued Rule 16 charge sheet for minor penalty.

9. Law relating to scope of judicial review in disciplinary proceedings is well settled by Hon'ble Supreme Court in the matters of **B.C.Chaturvedi Vs. Union of India**, (1995) 6 SCC 749 wherein their

lordships have clearly held that 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. In the instant case we find that the principles of justice have been duly observed by the authorities while considering the case of the applicant. Before imposing the order of penalty, the applicant was duly served with a copy of the enquiry report and only after considering his representation, the disciplinary authority has passed the order.

10. We further find that the applicant has received fair treatment at every stage of the disciplinary proceedings. The finding of guilt is based on sufficient evidence. The disciplinary and appellate authorities while considering the matter have passed detailed and exhaustive orders dealing with all the allegations made by the applicant, in his representation/appeal. The applicant has failed to point out any illegality or irregularity in the conduct of the enquiry against him.

11. The applicant cannot claim parity with Bhagwat Singh Raghuwanshi. Shri Bhagwat Singh Raghuwanshi was a Gramin Dak

Sevak and it was not his duty to deal with the financial transaction or monitor the financial transaction, as rightly contended by the respondents. The applicant was a departmental employee and he was in charge of the post-office and responsible to deal with and monitor the financial transactions. Thus, the applicant being a main offender was rightly issued charge sheet for major penalty as he had committed the fraud. Therefore, we do not find any force in the contention of the applicant that he has been discriminated in any manner.

12. In the matters of **B.C.Chaturedi** (supra) their lordships have further held that the disciplinary authority and on appeal the appellate authority, being fact finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. In the instant case we find that the authorities have accepted the evidence and the conclusion received by them supports there from. The respondents in their reply have specifically stated that the applicant had committed fraud of government money to the tune of Rs.1,58,122/- by forged withdrawals from different saving bank and recurring deposit accounts while working as Sub Post Master Deori District Raisen, and further committed fraud of Rs.1,17,618/- in SB Accounts, while working as Sub Postmaster Panjra

SO District Raisen. These have not been controverted by the applicant by filing any rejoinder. Therefore, by looking to the gravity of the misconduct committed by the applicant, we are of the considered view that the punishment of removal from service imposed upon the applicant cannot be said to be disproportionate shocking our conscience.

13. Thus, having considered all pros and cons of the matter, we do not find any merit in this Original Application. The same deserves is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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