

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP : BILASPUR

ORGINAL APPLICATION NO. 203/00092/2015

Bilaspur, this Monday, the 19th day of February, 2018

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

Nemichand Kesharwani S/o Shri Puniram Kesharwani,
Aged about 41 years, Ex. GDS-Branch Post Master,
Junwani Post Office (SO-Bhatagon) Pin:493332,
Tehsil: Bilaigarh, Dist.Balodabazar (CG)

- APPLICANT

(By Advocate –Shri B.P.Rao)

Versus

1. Union of India through the Secretary,
Ministry of Communication,
Department of Posts, Dak Bhawan,
New Delhi-110 001

2. The Director Postal Services,
Chhattisgarh Circle, CPMG Office,
M.G.Road, Raipur-492001 (CG)

3. The Sr. Superintendent of Post Offices,
Raipur Division, First Floor of Gunj Post Office,
Station Road, Raipur-492001

- RESPONDENTS

(By Advocate – Shri Vivek Verma)

(Date of reserving the order:07.11.2017)

ORDER

By Navin Tandon, AM-

The applicant is aggrieved by the fact that the respondent has initiated disciplinary proceedings against him for misappropriation of

government money in a baseless manner. Hence, this Original Application.

2. The brief facts of the case are that the applicant was engaged/appointed on 10.06.1993 as EDBM at Bhatagaon Post Office in Balodabazar District. He was transferred and posted as Branch Post Master at Junwani Post Office on 24.03.1998. He was placed under Put-off on 20.09.2011 (Annexure A-1). A charge sheet was issued to him on 19.08.2013 (Annexure A-4) alleging certain financial irregularities committed by him on different dates.

2.1 The disciplinary authority appointed enquiry officer and presenting officer. The enquiry report was submitted on 11.10.2013 (Annexure A-5) whereby the charges were proved. The disciplinary authority vide order dated 07.01.2014 (Annexure A-6) imposed a punishment of dismissal from engagement. The statutory appeal was submitted on 21.02.2014 (Annexure A-7) but was considered only after directions from this Tribunal on 19.09.2014 (Annexure A-9) in OA No.203/00732/2014. The appeal was rejected on 18.11.2014 (Annexure A-10).

3. The applicant has sought following reliefs:-

“8.1 That, the Hon’ble Tribunal be pleased to allow the O.A. and by calling entire relevant records of the D.E. from the possession of Respondents for its kind perusal to decide the Applicant’s grievance.

8.2 That, the Hon’ble Tribunal be pleased to set aside the Punishment Order dated 7.1.2014 (Annexure A-6), Appellate

Authority Order Dated 18.11.2014 (Annexure A-10) in the interest of justice.

8.3 *That, the Hon'ble Tribunal be pleased further to pass an order, directing the Respondents to allow the Applicant back in duties in his former post with all consequential benefits, in the interest of justice".*

4. The applicant has submitted that it has been alleged in the charge-sheet that the applicant has misappropriated (temporarily as well as permanently) huge amount of total Rs.6,03,000/- on different dates, which was deposited by Gram Panchayat Khapridih and Gram Panchayat Rohina. It is also said that said huge amounts pertains to Old Age Pension, Social Security Pension, Sukhad Sahara Pension, Handicapped Pension, Indira Gandhi National Security Pension etc. which is required to be paid about 1536 beneficiaries. But not a single beneficiary had complained neither before the concerned Gram Panchayat nor before the Postal Authority regarding non-payment of his entitled pension amount to him, thus the entire allegation levelled the applicant is false and baseless. The enquiry officer, disciplinary authority and appellate authority has overlooked this crucial fact before passing their orders against applicant.

4.1 The applicant has further submitted that even before issuance of charge-sheet, the respondents threatened the applicant to deposit such huge amounts; otherwise criminal case will be initiated against him. Afraid of this threat the applicant arranged from his own resources and deposited Rs.3,26,600/- to which the Respondents in the

charge sheet alleged that the applicant had accepted the part of misappropriation amount and deposited the same to the Post Office through SBI-cheques. This is illegal and incorrect.

4.2 The applicant has gone on to submit that he was negligent in proper maintaining the records of all such receipts and payments made by him to concerned pension borrower, but he categorically stated in enquiry that he had paid whatever amount received by him from the concerned Gram Panchayat to the concerning pensioner borrowers in time, but either he may not accounted correctly in the relevant registers or may be entered against another registers, but he categorically stated that he had not misappropriated any single amount of any borrower. To this effect, he has deposed on affidavit to this Tribunal (Annexure A-11).

5. The respondents in their reply have averred that the applicant misappropriated the government money deposited by Khapridih Gram Panchayat and Rohina Gram Panchayat. Subsequently, departmental enquiry was initiated as per departmental rules. After following all the procedure, and conclusion of enquiry, it was proved that charges are proved, the disciplinary authority imposed punishment of 'dismissal from engagement'. The appellate authority has found that the action of the disciplinary authority is just and fair, hence has rejected the appeal.

6. Heard the arguments from both the parties. Learned counsel for the applicant has also submitted his written statement.

7. It is the case of the learned counsel of the applicant that there was not a single case of complaint from any of the Gram Panchayat or beneficiaries. Hence, the whole process is vitiated. From the enquiry report it is not clear how enquiry officer proved the alleged charges against the applicant.

7.1 In support of his arguments, the learned counsel for the applicant has cited the case of **Correspondent, Anaikar Oriental (Arabic) Higher Secondary School & anr. Vs. A.Haroon & anr.** in Civil Appeal No.12067 of 2016 decided on 14.12.2016 by Hon'ble Supreme Court 2017 (1) SLJ 225, wherein it has been held that “management cannot act as complainant, prosecution and Judge”.

8. The learned counsel for the respondents argued that the respondent-department has followed all the departmental procedure. The applicant has not brought out any flaw in the process whereby natural justice was not given to him. He has cited the decision of the Hon'ble Supreme Court in the matters of **State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya**, (2011) 4 SCC 584 to say that courts will not act as an appellate court and reassess the evidence led in the domestic

enquiry, nor interfere on the ground that another view is possible on the material on record.

9. In the matters of **Prem Nath Bali Vs. Registrar High Court of Delhi & anr.** (2017) 1 SCC (L&S)263 :(2015) 16 SCC 415 the Hon'ble Supreme Court held that where the appellant is served with detailed charge sheet along with documents referred to therein; he filing reply to charge sheet; parties given full opportunity to adduce evidence; which they availed of by examining witnesses in their support and by cross-examining each of them, there was due compliance with principles of natural justice by enquiry officer, warranting no interference in exercise of writ jurisdiction.

10. Going through the arguments of the learned counsel of both sides and material available on record, it is seen that the respondents have carried out the whole departmental proceedings as per rules prescribed. The enquiry report has clearly recorded that the amount collected from the two Panchayats were not accounted for on the dates collected, and some amount not accounted for at all. The disciplinary authority and appellate authority have passed detailed speaking orders while imposing/confirming the punishment.

11. The reliance placed by the learned counsel for the applicant on the decision in the matters of **A.Haroon** (supra) can not support his case, as

he has failed to point out any violation of principles of natural justice in the instant case.

12. Accordingly, the Original Application is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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