

**CENTRAL ADMINISTRATIVE TRIBUNAL**

**ERNAKULAM BENCH**

**Original Application No.180/00659/2015**

Friday, this the 31<sup>st</sup> day of May 2019

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member**  
**Hon'ble Mr.Ashish Kalia, Judicial Member**

K.K.Thankamani  
W/o.Gopi, aged 55 years  
GDS BPM  
Porkulam, Thrissur  
Guruvayoor Sub Division  
Department of Posts  
Residing at Pulickal House  
Kechery P.O  
Chiranelloor, Thrissur-680 501 ..... **Applicant**

**(By Advocate Mr.V.Sajith Kumar)**

**V e r s u s**

1. Union of India, represented by the Secretary to  
Government, Department of Posts  
Ministry of Communications,  
Government of India, New Delhi – 110 001
2. The Chief Postmaster General  
Kerala Circle  
Trivandrum – 695 001
3. The Senior Superintendent of Post Offices  
Thrissur Division  
Thrissur- 680 001
4. Director of Postal Services  
Central Region  
Kerala Circle, Cochin -682 020
5. Inspector of Posts  
Guruvayur Sub Division  
Guruvayur – 680 101 ..... **Respondents**

**(By Advocate – Mr.A.S.Brijesh,ACGSC)**

This Original Application having been heard on 29.5.2019, the Tribunal on 31.5.2019 delivered the following:

**O R D E R**

**Per: Mr.E.K.Bharat Bhushan, Administrative Member**

Original Application No.180/00659/15 is filed by Smt.K.K.Thankamani, former GDS BPM under the respondents, who is aggrieved by the proceedings initiated by the respondents resulting in her dismissal from service. The reliefs sought in the Original Application are as follows:

“ (i) To quash Annexure A1, Annexure A2, Annexure A5 and Annexure A7

(ii) Grant such other reliefs as may be prayed for and as the Court may deem fit to grant, and

(iii) Grant the cost of this Original Application. ”

2. The applicant had entered into service as GDS BPM, Porkulam with effect from 11.5.1988. A matter relating to late credit of cash to the tune of Rs.18,000/- pertaining to her charge was reported to the 3<sup>rd</sup> respondent by the Inspector of Posts and the applicant was placed under 'put off' duty by letter dated 4.10.2010. On subsequent verification, the Department assessed the loss at Rs.1,33,382/-. The applicant deposited a sum of Rs.1,55,195/- to the Post Office accounts. A detailed charge sheet was issued with three Articles of Charges. They are:

“ Article I- That the said Smt.K.K.Thankamani, while working as BPM, Porkulam BO, failed to bring into Post Office Accounts sums of Rs.1000/- on 15.4.2009, Rs.400/- on 30.4.2009, Rs.1000/- on 22.5.2009 and Rs.2000/- on 24.11.2009 accepted by her for deposit in Porkulam SB Account No.561256 standing open in the name of Smt.Lalitha Vijayan, Pulikkottil House, Porkulam, as required under Rule 133(2) of Rules for Branch Offices and failed to maintain

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absolute integrity and devotion to duty violating Rule 21 of Department of Posts, Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011.

Article II- That the said Smt.K.K.Thankamani, while working as BPM, Porkulam BO, failed to bring into Post Office Accounts amounts of Rs.400/- each on 24.6.2010 and 6.9.2010 accepted by her for deposit in Porkulam RD Account No.809007 standing open in the name of Smt.Vijayakumari, Moolepat House, Pengamucku as required under Rule 133(2) of Rules for Branch Offices and failed to maintain absolute integrity and devotion to duty violating Rule 21 of Gramin Dak Sevaks (Conduct and Engagement) rules, 2011.

Article III - That the said Smt.K.K.Thankamani, while working as BPM, Porkulam BO, failed to bring into Post Office Accounts amounts of Rs.10,000/- on 21.8.2010 accepted by her for deposit in Porkulam SB Account No.560112 standing open in the name of Sri.C.K.Gopalan, Channayil House, P.O Porkulam as required under Rule 133(2) of Rules for Branch Offices and failed to maintain absolute integrity and devotion to duty violating Rule 21 of Department of Posts, Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011. ”

A copy of the Charge Memo dated 16.4.2012 issued by the 3<sup>rd</sup> respondent is at Annexure A-2.

3. Following the procedures laid down under the GDS (Conduct and Engagement) Rules, 2011, an enquiry was conducted against the applicant. It is affirmed in the Original Application that in spite of the fact that there were no conclusive findings with regard to the allegations contained in the Articles of Charges, the Inquiry Officer made some observations which were to the detriment of the applicant. There was no finding that the applicant had committed any misconduct to impose the punishment of dismissal from service, the applicant claims. A copy of the Inquiry Report is at Annexure A-4.

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4. Regardless of the conclusions in the Inquiry Report, the third respondent imposed the punishment of dismissal. The Inquiry Report was stated to have been accepted without any reservation by the Disciplinary Authority and an attempt has been made by the third respondent to enter into new findings against each Articles of Charges which were not contained in the Inquiry Report thereby coming to the conclusion that the applicant merited extreme punishment.

5. The applicant preferred an appeal against the orders of the Disciplinary Authority at Annexure A-5. She contested the findings made by the Inquiry Officer as well as the Disciplinary Authority and also that the 2011 Rules cannot be made applicable to her as the alleged misconduct occurred prior to the commencement of the said Rules. Casting aside her defense, the Appellate Authority also rejected her representation/appeal and retained the extreme punishment of dismissal from service.

6. As grounds, the applicant contends that the proceedings leading to the dismissal from service were based on irrelevant and erroneous facts and alleges violation of the procedure prescribed. It is maintained that there were no conclusive findings of any Article of Charge in the Annexure A-4 Inquiry Report and the Disciplinary Authority had accepted the Inquiry Report and communicated the same to the applicant without noting any disagreement with the conclusions of the Inquiry Report. From this point of view, the Disciplinary Authority had assumed the role of the Inquiry Authority while concluding the charges as proved and this is irregular. She

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repeats her argument that GDS (Conduct and Engagement) Rules are not applicable in her case and hence Annexure A-7 order is liable to be set aside.

7. The respondents have filed a detailed reply statement in which the contentions made in the Original Application have been strongly disputed. It is stated that during the annual inspection of the Porkulam Branch Post Office on 4.10.2010 by the Inspector of Posts, Guruvayoor, an embezzlement of Government money to the tune of Rs.4,46,552/- by the applicant who was GDS BPM, was detected. Hence cent percent verification at Porkulam BO was ordered by the 3<sup>rd</sup> respondent as well as action sending her on 'put off' duty. Detailed investigation unearthed the fact that a sum of Rs.4,46,552/- was misappropriated by the applicant across 33 cases.

8. A Charge Sheet was issued under Rule 10 of the Department of Posts, Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011 to the applicant by the 3<sup>rd</sup> respondent and after due process, orders were issued as per Annexure A-5, dismissing the applicant from service. The applicant preferred an appeal before the 4<sup>th</sup> respondent which too came to be rejected as per Annexure A-7 Memo.

9. It is maintained that the misconduct on the part of the applicant had been of a very severe nature. According to the department rules, circle level investigation is ordered in cases where the amount involved is more than Rs.50,000/-. The applicant, out of her own volition, deposited an amount of Rs.1,55,195/-.

10. It is stated in the reply statement that the applicant is trying to divert attention from the nature of the fraud committed by her through specious arguments. She contends that the 2011 Rules are not applicable in her case as the misconduct alleged happened before the Rules were promulgated. However, it is not disputed that the initiation of proceedings vide Annexure A-2 was well after the Rules came into force. In so far as an Inquiry is concerned, it is stated therein that the applicant had admitted the fact that the amounts mentioned in the Charge Sheet were actually accepted by her, but not accounted for and the money was used for her personal purpose. The applicant was also given reasonable opportunity to put up her defense. Accepting the conclusions of the Inquiry Report, the Disciplinary Authority had dismissed the applicant from service on the following grounds:-

“1. The commitment of the applicant narrated in the articles of charge and statement of imputations are of serious nature and are proved beyond doubt.

2. Case of the applicant is a clear case of embezzlement of public money which tarnished the image of the Department before the public.

3. There is no word of denying the charges or any word of repentance or request for excuse in the representation submitted by the applicant. As such, the applicant is fully aware of the gravity of the offense committed by her.”

11. Several judgments have been quoted in the reply statement to the effect that a Court or Tribunal cannot, in the ordinary course, interfere in a disciplinary case unless there is compelling evidence to justify such intervention.

12. Heard Shri.V.Sajith Kumar on behalf of the applicant and Shri.A.S.Brijesh, ACGSC, learned ACGSC for the respondents. Perused the records.

13. Shri.V.Sajith Kumar confined his argument to the sole point that under CCS CCA Rules, Rule 23, the Inquiry Officer is required to arrive at findings on each Article of Charge. According to him, this has not been done. Again learned counsel for the applicant stated that the Disciplinary Authority having concluded the charges as proved, clearly differed with the conclusions of the Inquiry Officer. We see no such twist in this case. Rule 23 (i) of CCS CCA Rules reads as follows:

“Rule 23(i): After the conclusion of the inquiry, a report shall be prepared and it shall contain-

(a) the articles of charge and the statement of the imputations of misconduct or misbehaviour.

(b) The defence of the Government servant in respect of each article of charge;

(c) an assessment of the evidence in respect of each article of charge;

(d) the findings on each article of charge and reasons therefore.

Explanation: If in the opinion of the Inquiring Authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge:

Provided that the findings on such article of charge shall not be recorded unless the Government servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.”

14. On going through the Inquiry Report at Annexure A-4, we see that the

charges contained in each of the Articles have been elaborately examined. The testimony of various witnesses has been included and after due consideration, the final conclusion by the Inquiry Officer is to the effect that "Articles of charges 1,2 & 3 above are fully proved." The fact that this conclusion has been appended at end of the report and not after each article does not constitute violation of procedure in our view.

15. It is seen that the charges pressed against the applicant are of a very grave nature. A detailed enquiry was conducted wherein she has been found guilty on the three counts raised against her. The Inquiry had been conducted in prescribed manner giving reasonable opportunity to the applicant to defend herself. The Disciplinary Authority after intimating the applicant of the Inquiry Report, came to the conclusion that the misconduct merited the extreme punishment of dismissal. No note of difference has been offered by the Disciplinary Authority for the simple reason that he does not differ in any way with the conclusions of the Enquiry.

16. The role of the Tribunal or Court in a disciplinary proceeding is limited to examine whether all procedures have been followed and whether principles of natural justice have been observed. In the case of ***State Bank of India v. Samarendra Kishore Endow*** (1994 (1) SLR 516), the Hon'ble Supreme Court opined that a High Court or Tribunal has no power to substitute its own discretion for that the authority.

17. In ***Union of India v. Tulsiram Patel*** AIR 1985 SC 1416, the Hon'ble

Supreme Court opined that a Court can interfere if the penalty imposed is arbitrary or grossly excessive or out of all proportion to the offence committed or not warranted by the facts and circumstances of the case or the requirements of that particular Government service.

18. In so far as this case is concerned, we can make no such inferences. The Branch Post Offices are a crucial link in inculcating the saving habit among the public particularly in rural areas. As most of the participants in various saving programmes of the Post Office Department are from the financially weaker sections of society, the responsibility of the staff working at the Post Offices is very high and any action on their part, not in line with the guidelines of the scheme, would grievously affect the public at large. The entire system works on trust and the applicant is clearly seen to have belied that trust. The Department in consequence has imposed the extreme punishment on her.

19. Based on the facts before us, we are of the view that the Original Application has little merit and is liable to be dismissed. Ordered accordingly. No costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

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**(E.K BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**List of Annexures**

Annexure A1 - A true copy of Memo No.GS/D/GDS/Porkulam dated 4.10.2010 issued by the 5<sup>th</sup> respondent

Annexure A2 - A true copy of Memo No.F1/2/10-11/R 10 dated 16.4.2012 issued by the 3<sup>rd</sup> respondent

Annexure A3 - A true copy of the written brief submitted by the applicant in Rule 10 Enquiry

Annexure A4 - A true copy of the Enquiry Report forwarded as per Letter No.F1/2/10-11/R.10 dated 5.4.2013 issued by the 3<sup>rd</sup> respondent

Annexure A5 - A true copy of the Order or the Memo No.F1/2/10-11/R 10 dated 24.5.2013 issued by the 3<sup>rd</sup> respondent

Annexure A6 - A true copy of the Appeal Memorandum dated 25.6.2013 submitted by the Applicant to the Director of Postal Services, Office of the Post Master General, Central Region, Ernakulam

Annexure A7 - A true copy of the Memo No.ST/7-27/2013 dated 16.4.2015 issued by 4<sup>th</sup> respondent

Annexure R1 - True copy of representation dated 25.4.2013 submitted by the applicant to disciplinary authority

Annexure R2 - True copy of judgment dated 11.9.2015 of this Tribunal in O.A 1214/2012

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