

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/00007/2016

Date of CAV : 11.10.2018
Date of Order : 24.10.2018

Between :

B. Ezra Sastry S/o B.Kishore,
Aged 46 years, SPM Nehrunagar S.O.,
Guntur Division.Applicant

AND

1. Union of India, Represented by
The Chief Postmaster General,
A.P. Circle, Hyderabad-500 001.
2. Director of Postal Services,
O/o Postmaster General,
Vijayawada Region, Vijayawada.
3. The Superintendent of PO s,
Guntur Division, Guntur.Respondents

Counsel for the Applicant: Mr.B.Gurudas

Counsel for the Respondents : Mrs.Megha Rani Agarwal, Addl CGSC

CORAM :

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the A.T.Act, 1985 to call for the records pertaining to the following orders

1. 3rd Respondent Memo No. RPLI/CC91/2011/2014, dt.31-03-2015; awarding the penalty of recovery of Rs.1,52,679/- from the pay of the applicant
2. 3rd Respondent Memo No. RPLI/C91/2011/2014, dt.23-2-2015; containing the charges against the applicant
3. 2nd Respondent Memo No. ST-IV/13/14/2015, dt.31-8-2015, rejecting the appeal of the applicant

and declare the same as illegal, arbitrary, against Rules and in violation of the principles of natural justice and Articles 14 and 21 of the Constitution of India and set aside and quash the said illegal orders with a consequential direction to refund the amount already recovered, to the applicant and pass such other order or orders as deemed fit and proper in the facts and circumstances of the case and in the interest of justice.

2. The brief facts of the case are that, the applicant while working as SPM, Tadikonda S.O., Guntur Division was alleged to have accepted RPLI premium irregularly in respect of Policy No. R-AP-VJ EA 192565 lapsed without getting it revived for the months from 1/2006 to 9/2006 on 30-11-2006 and for 10/2006 to 3/2007 on 30-4-2007 and consequently Department was put to financial loss to the extent of Rs.1,52,679/- due to implementation of the Orders of the District Consumer Forum, Guntur vide CC No.91/2011 confirmed by the State Commission. The 3rd Respondent issued Memo of Charges vide Memo No. RPLI/CC91/2011/2014, dt.23-2-2015 under Rule 16 of CCS (CCA) Rules, 1965 to the applicant and awarded penalty of 'recovery of Rs.1,52,679/- from his pay payable on 30-4-2015' vide Memo dt. 31-3-2015 without considering the submissions made through his representation dt.5-3-2015. Aggrieved upon the penalty of heavy recovery, the applicant preferred an appeal dt. 25-4-2015 to the appellate authority who rejected it without taking into account the valid grounds furnished in the appeal.

3. The applicant further contends that when the intention is to recover

heavy amount, it is mandatory for the disciplinary authority to conduct a detailed inquiry under Rule 14 of CCS (CCA) Rules, 1965 as per the orders of the 1st Respondent contained in letter No.LC-1/MISC/2013-14, Dt.16-1-2014 issued in accordance with the orders passed by this Tribunal in various cases. An opportunity of being heard is to be given even in case of minor penalties as per the judgment of the Hon'ble Supreme Court rendered in the case of O.K.Bharadwaj Vs. UoI [2001 (9) SCC 180]. Heavy amount of Rs.1,52,679/- was ordered to be recovered without following these orders.

4. It is further stated that, the applicant submitted his representation dt.30-6-2014 informing the 3rd Respondent that the Good Health Declaration and Good Health Certificate were sent to the Divisional Office for revival of the said policy and requested to supply five documents including S.O daily account wherein Good Health Declaration and Certificate were entered. The applicant submitted reply dt.31-1-2015 requesting the 3rd Respondent to drop the proposal to order recovery of Rs.1,52,679/-. The 3rd Respondent was not satisfied with the submissions put forth by the applicant and issued charge sheet vide memo dated 23-2-2015.

5. The applicant submitted his representation dt.5-3-2015 in response to the charge memo dt. 23-2-2015 denying the allegations. As the charge memo was issued after 9 years, the applicant could not recollect what happened. He has therefore requested to supply the relevant documents which were not supplied violating the principles of natural justice. He has categorically stated that he acted strictly as per rules on the subject. The 3rd

Respondent without considering the submissions made by the applicant, awarded the penalty of recovery of Rs.1,52,679/- from the pay of the applicant by passing the following order dated 31-3-2015. Thereafter the applicant preferred an appeal dated 25-4-2015 and the same was also rejected by the appellate authority vide order dated 31-8-2015. Hence this application.

6. Respondents have filed reply statement stating that, one Sri Mogili Rambabu had taken RPLI for Rs.1,00,000/- at Tadikonda Post Office with mode of payment of Quarterly Premium on 31.03.2004 and the same was accepted by the 3rd Respondent with Policy No.R-AP-VJ-EA-192656. The Policy holder had paid the quarterly premium up to 12/2005 regularly and did not pay the premium for a continuous period of six months, the said RPLI Policy has lapsed as per Rule-39 and 41 of Post Office Life Insurance Fund Rules as the Policy was not paid for 36 instalments.

7. Later, the Policy Holder had paid the arrears of premium from 01/2006 to 09/2006 (3 quarters) on 30.11.2006 and from 10/2006 to 03/2007 (2 quarters) on 30.04.2007 after lapse of the policy without seeking any revival sanction / orders from the Competent Authority by submitting necessary Good Health Declaration of the Policy Holder and Good Health Certificate given by the Authorized Medical Attendant. The Supdt., of Post Offices, Guntur Division, Guntur and 3rd Respondent is the competent authority to issue necessary sanction / order for revival of the lapsed RPLI Policy as per rules and procedure on the subject. Since Policy

holder has not at all applied for revival of his Policy and since no revival sanction / orders were issued by the competent authority, the RPLI Policy No.R-AP-VJ-EA-192656 has been lapsed and no further payment of premium is not at all acceptable in respect of the said RPLI Policy until the same is properly revived as per rules on the subject. Thus, there is no validity for the payment of premiums after lapse of Policy without sanction of revival of the Policy by the competent authority under Rule-41 of Post Office Insurance Fund Rules. Hence, the Policy stands lapsed under the provisions of Rule-39 of Post Office Insurance Fund Rules with effect from 01/06 onwards.

8. However, the Policy holder continued payment of the premium up to 03/08 without revival of the said RPLI Policy and died on 01.04.2008. Later the nominees of the Policy preferred claim to the Postmaster General, Vijayawada. The said claim was processed as per rules and guidelines on the subject and the Postmaster General, Vijayawada has rejected the claim under Rule 39 of Post Office Insurance Fund Rules and however issued sanction for refund of the amount of instalments paid by the Policy Holder after the lapse of the Policy vide letter dated 22.04.2009.

9. The claimants approached the District Consumer Forum, Guntur District and filed a case against the Department / Respondents under C No.91/2011. It is submitted that written reply / version was filed by the Department and the Hon'ble District Forum, Guntur after hearing upon both the sides and on perusing the documents has allowed the complaint in

part with a direction to the Department to pay the claim amount Rs.1,00,000/- with interest @ 9% per annum and also directed to pay Rs.5000/- and Rs.1000/- towards compensation for mental agony and costs respectively vide order dt. 11-10-2011 in CC No.91/2011.

10. Aggrieved by this, Department / Respondents have filed appeal before the Hon'ble State Commission, Hyderabad which in First Appeal No.161/2012, the Hon'ble State Commission vide order dated 17.04.2013 in FA 161/2012 against CC No.91/2011 of Hon'ble District Consumer Forum, Guntur modified the order of the Hon'ble District Consumer Forum, Guntur and directed the Department to pay the sum assured after deducting unpaid premiums with interest thereon and the appellant shall pay interest @ 9% per annum on the amount payable to the respondents with costs of Rs.1,000/-. The Competent Authority, ie Postmaster General, Vijayawada Region, Vijayawada has decided to implement the order dated 17.04.2013 passed by Hon'ble State Commission, Hyderabad in the case and ordered to fix up responsibility on the official(s) at fault and recover the full amount i.e., sum assured + interest and costs as ordered by the State Commission from concerned official(s) responsible vide letter dated 02.04.2014.

11. Accordingly the Department has paid / credited an amount of Rs.1,52,679/- to comply with the orders of the Hon'ble State Commission, Hyderabad through DD No.845191, dt. 20.01.2012 for Rs.25,000/- DD No.711765, dated 24.07.2012 for Rs.43,500/- and cheque NO.146377 dated 05.05.2014 for Rs.84,179/-. Enquiries conducted in the above said matter

regarding fixing up of responsibility on the officials(s) at fault revealed that Sri B. Ezra Sastry and applicant herein who worked as officiating Sub Postmaster, Tadikonda SO during the period from 01.11.2006 to 13.12.2006 and 15.12.2006 to 25.05.2007 had accepted the premium in the above said lapsed RPLI Policy on 30.11.2006 and 30.04.2007 without getting it revived as prescribed in Rule 39 and 41 of Post Office Insurance Fund Rules, facilitated the claim and thereby caused heavy loss to the Department by way of payment of sum assured with interest to the claimants, besides huge expenditure towards legal and other expenses. As the applicant is the only person responsible for the loss in the above RPLI claim case, a notice was issued to the applicant vide letter dated 18.06.2014 to credit the said amount voluntarily without prejudice to the disciplinary action, if any, initiated against him as per the rules. As the applicant did not credit the amount voluntarily, appropriate disciplinary action under Rule-16 of CCS (CCA) Rules, 1965 was initiated against him vide memo dated 23.02.2015 and the same was finalized on 31.03.2015 imposing a penalty of recovery. In view of these submissions, Respondents pray for dismissal of the OA.

12. We have heard Mr.B.Gurudas, learned counsel for the applicant and Mrs.Megha Rani Agarwal, learned Additional Central Govt., Standing Counsel for Respondents.

13. In support of his contentions, learned counsel for the applicant relied upon the following decisions :

(i) decision of CAT, Hyderabad Bench in OA No.737/2007, dt. 31.7.2008;

- (ii)decision of CAT, Hyderabad Bench in OA Nos./020/00434, 00435 and 00436/2014, dt. 09.09.2014;
- (iii) decision of CAT, Hyderabad Bench in OA No.229/2008, dt. 31.07.2008;
- (iv) decision of CAT, Hyderabad Bench in OA No.1086/2015, dt.12.2.2016;
- (v) decision of CAT, Hyderabad Bench in OA No.021/1501/2015, dt.27.04.2017; and
- (vi) decision of CAT, Hyderabad Bench in OA No.16/2009, dt.22.06.2009.

14. This Tribunal has gone through the citations as mentioned above, which have been relied upon by the learned counsel for the applicant. The applicant has not admitted his guilt and on the other hand denied the allegations made against him. He was not offered any personal hearing. No enquiry has been conducted. The amount of Rs.1,52,679/- sought to be recovered from the applicant is huge amount and therefore it was incumbent on the part of the Respondents to start regular departmental proceeding against the applicant so that the applicant would have been given due and reasonable opportunity to present his case and to defend himself against the allegations made against him. Therefore, in the interest of justice, the impugned orders No. RPLI/CC91/2011/2014, dt.31-03-2015; awarding the penalty of recovery of Rs.1,52,679/- from the pay of the applicant, 3rd Respondent Memo No. RPLI/C91/2011/2014, dt.23-2-2015; containing the charges against the applicant and 2nd Respondent Memo No.ST-IV/13/14/2015,dt.31-8-2015, rejecting the appeal of the applicant are set aside. The Respondents are given liberty to start regular departmental proceedings against the applicant if so advised and to proceed with the same in accordance with the law. If the Departmental Proceedings are started against the applicant in this connection, then the

same should be completed preferably within a period of three months from the date of receipt of a copy of this order.

15. The Original Application is accordingly allowed with the above directions. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : 24th October, 2018.

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