

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

ORIGINAL APPLICATION NO.203/00180/2015

Jabalpur, this Wednesday, the 23rd day of January, 2019

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

Bhaiyalal Sahu (deceased) Through LR
Smt.Phool Bai Sahu, W/o late Bhaiyalal Sahu
Aged about 48 Yrs,
Housewife, R/o Village Matiya
District: Baloda Bazar (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),
(Appellate Authority)
Chhattisgarh Circle, CPMG Office,
M.G.Road, Raipur-492001 (CG)

3. The Sr. Supdt. of Post Offices,
Raipur Division, First Floor, Ganj Post Office,
Raipur-492001

- RESPONDENTS

(By Advocate – Shri A.P.Khare)

(Date of reserving the order:10.01.2019)

ORDER

By Navin Tandon, AM.-

The applicant is aggrieved by imposition of penalty of Removal from Engagement passed against her husband Late Bhaiyalal Sahu, who

was working as Gramin Dak Sewak (for brevity '**GDS**') , Matiya, Branch Office : Katagi, District Balodabazar (CG).

2. This Original Application was filed by said Bhaiyalal Sahu, and after his death, her wife has been impleaded as his legal representative.

3. The original applicant has submitted as under:-

3.1 He was appointed as GDS-Post Master on 07.01.1989 at Matiya (Katagi) Post Office.

3.2 On account of heavy work he was feeling some mental problem. Therefore, he submitted an application dated 16.03.2011 (Annexure A-1) to grant him leave for taking proper treatment of his mental stress/strain.

3.3 The Sub Divisional Inspector, Balodabazar vide his letter dated 12.05.2011 (Annexure A-2) arranged a reliever and allowed him to proceed on leave for taking treatment from some mental doctor.

3.4 After taking treatment from psychiatrics he joined his duties on 16.11.2011.

3.5 During his mental problem, he received certain amounts pertaining to 5 RD accounts and 3 PIL accounts but he could not remit the same to the post office account. However, on being pointed out, he remitted the amount along with interest (Rs.2200/-) on 24.10.2011 (Annexure A-6).

3.6 He was placed under put off vide memorandum dated 12.12.2011 (Annexure A-7).

3.7 He was served with a charge sheet under Rule 10 of the GDS (Conduct and Employment) Rules, 2011 vide memo dated 23.03.2012 (Annexure A-8).

3.8 He submitted his explanation on 30.03.2012 contending therein that he was suffering from some mental problems as such he had forgotten to remit the said amount to the Post Office. He admitted the guilt without any demur and remitted the amount to the Post Office.

3.9 After holding full-fledged departmental enquiry, the disciplinary authority vide order dated 06.08.2014 (Annexure A-12) imposed the penalty of Removal from Engagement on her husband.

3.10 Since the appeal submitted was not decided he approached the Tribunal by filing OA No.203/00899/2014, which was disposed of vide order dated 18.11.2014 (Annexure A-14) with a direction to the appellate authority to decide his appeal within a period of 3 months.

3.11 Thereafter, his appeal was rejected vide order dated 17.12.2014 (Annexure A-15). Hence, this Original Application.

4. Following reliefs have been claimed in this Original Application:-

“(8.1) That, the Hon’ble Tribunal be pleased to allow the O.A. and by calling entire relevant records 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 6.8.2014 (Annexure A-12) and Appellate Authority Order dated 17.12.2014 (Annexure A-15) in the interest of justice.

(8.3) That the Hon'ble Tribunal be pleased to pass another order or direction to the Respondents to reinstate the Applicant in Service with all consequential benefits at the earliest in the interest of justice”.

5. The respondents have submitted as under:-

5.1 Bhaiya Lal Sahu while working as GDS BPM, Branch Post Office Matiya (Katgi) from 07.01.1989 to 11.12.2011, misappropriated govt. money in various RD Accounts and RPLI Accounts on various dates. The same was accepted by him in his statement dated 29.07.2011 and 16.11.2011 (Annexure-1).

5.2 Charge sheet was issued to him on 23.03.2012.

5.3 After holding enquiry, the disciplinary authority examined his representation along with relevant documents and came to the conclusion that his offence was of serious nature. Hence, punishment of Removal from Engagement was imposed upon him.

5.4 The appellate authority considered his appeal, examined all relevant documents and found that punishment imposed upon by the disciplinary authority is just and fair. So the appellate authority rejected his appeal.

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 contended as under :-

7.1 Both disciplinary and appellate authorities have failed to note that the deceased GDS was suffering from mental problems as such he was permitted to take treatment and allowed to remain in leave and he was replaced by reliever also. Accordingly, after treatment the applicant was allowed to join his duties.

7.2 Alleged irregularities happened because of his mental problems, which cannot be construed as severe misconduct warranting imposition of extreme penalty of Removal from Engagement.

7.3 All the prosecution witnesses as well as defence witness deposed that they were aware that the deceased GDS was suffering from some mental disease at the material time.

7.4 The charges were proved on the basis of acceptance of guilt by the deceased-GDS. Both disciplinary as well as appellate authorities have failed to appreciate past 22 years unblemished service record of deceased-GDS. Therefore, the punishment imposed on him seems to be totally disproportionate to the alleged misconduct.

8. On the other hand, learned counsel for the respondents submitted as under:-

8.1 Deceased-GDS had misappropriated government money which is a serious nature of offence. Hence actions of the disciplinary as well as appellate authorities are just and fair.

8.2 The period of misconduct and period of mental illness are different. Deceased-GDS made such certificate to hide his misconduct.

9. Having heard learned counsel of parties and after carefully perusing the pleadings of parties we find that the deceased GDS was put off from duty only on 12.12.2011 on the ground of initiation of departmental enquiry. Whereas in his order dated 12.05.2011 (Annexure A-2) the Sub-Divisional Inspector, Baloda Bazar has clearly mentioned as under:

“जैसा कि डाक अधिदर्शक श्री मुरली लाल देवांगन द्वारा मटिया शा. डाकघर तहत दिनांक 5-5-11 की रिपोर्ट दी गयी है कि लेखा. शा. डा. पाल श्री भैयालाल साहू की मानसिक स्थिति ठीक न होने के कारण उनके द्वारा लेखा रजि0 नहीं भरा गया है एवं उनके द्वारा जो कुछ लिखा गया है वह वे खुद पढ़ नहीं पा रहे हैं। श्री भैयालाल साहू एकल होने के कारण अपनी इलाज भी नहीं करा पा रहे हैं। अतः निम्न व्यवस्थ तत्काल प्रभाव से लागू किया जाता है।

1. श्री हरिराम वर्ष डाक वाहक वितरण सरगांव को तत्काल प्रभाव से मटिया अटैच किया जाता है जो श्री भैया लाल साहू को इलाज कराने एवं स्वस्थ होने हेतु भारमुक्त करेंगे।
2. श्री जियाराम साहू अग्रिम व्यवस्था तक डाकवाहक वितरण का अतिरिक्त कार्य करेंगे।
3. श्री भैया लाल साहू किसी Mental Doctor से इलाज कराकर स्वास्थ्य लाभ लेवे और स्वस्थ होने पर Mental Doctor की fitness के बाद ही कार्य भार ग्रहण करेंगे।”

(emphasis supplied)

9.1 Further, Dr.Shashikant Rajput in his certificate dated 02.11.2011 has clearly stated that the deceased GDS was diagnosed as a case of depressive disorder and he was under treatment from 14.05.2011. Therefore, the contention of the respondents that the period of misconduct and period of mental illness are different and that the deceased-GDS made such certificate to hide his misconduct cannot be accepted.

9.2 From a perusal of the enquiry report, orders of disciplinary as well as appellate authority, we find that not a single evidence of the prosecution/defence witnesses has been discussed, by these authorities, before holding that the applicant has misappropriated the government money, whereas there are sufficient material to the effect that the deceased-GDS was suffering from mental disease. These authorities have basically came to their final conclusion merely on the basis of admission of guilt by the deceased-GDS whereas there were sufficient oral as well as documentary evidence to the effect that the deceased GDS was not mentally fit.

10. In this view of the matter we are of the considered opinion that the punishment of 'Removal from Engagement' which was imposed upon the deceased-GDS was shockingly disproportionate to the misconduct committed by him.

11. Accordingly, the Original Application is allowed. The impugned orders are quashed and set aside. The matter is remitted back to the disciplinary authority for considering imposing upon any penalty other than 'Removal/Dismissal from employment' on the deceased GDS and granting all consequential benefits to the applicant. This exercise should be completed within a period of one month from the date of communication of this order. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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