

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.3863/2014

Monday, this the 20th day of May 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Braham Pal, aged about 40 years
Designation – PA
s/o Late Sh. Ram Singh
r/o Heempur Mandal
Barhapur, Post Kotwali Dehat
Distt. Bijnor, Rajasthan

..Applicant
(Advocates: Mr. Sanjiv Kalia, Mr. Nandram VGR Acharya and Ms. Seema Thapliyal)

Versus

1. Chief Post Master General
Department of Posts
Shastri Bhawan, New Delhi
Through its Secretary
2. Union of India through
The Secretary,
Govt. of India
M/o Communication, Department of Posts
Dak Bhawan, New Delhi

..Respondents

(Mr. N D Kaushik, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was working as Postal Assistant in the Post Office, Shastri Bhawan. On 27.11.2008, a charge memo was issued to him, alleging that he did not remit in the accounts of the Post Office, various amounts collected by him and misappropriated an amount of ₹88439/-. Inquiry officer was

appointed in terms of the relevant Service Rules. The applicant appeared at the preliminary stage itself and admitted the charge. The inquiry officer reported the same to the disciplinary authority. However, on being required by the disciplinary authority, the inquiry officer conducted inquiry and submitted his report on 24.04.2009, holding the charge as proved. The report was furnished to the applicant and he submitted a representation, admitting guilt and pleading mercy. Taking the same into account, the disciplinary authority passed an order dated 19.08.2009, directing compulsory retirement of the applicant, with immediate effect.

2. The applicant filed a revision before the Chief Postmaster General. The same was rejected, through an order dated 14.06.2013. This O.A. is filed challenging the order of punishment, as affirmed in revision. The applicant contends that the disciplinary inquiry was not conducted in accordance with Rules and adequate opportunity was not given to him. He denied the allegation as to misappropriation.

3. The respondents filed counter affidavit opposing the O.A. It is stated that having pleaded mercy before the disciplinary authority, the applicant cannot challenge the order of punishment. It is also stated that the charge framed and proved against the applicant is very serious and punishment imposed cannot be said to be disproportionate.

4. We heard Mr. Sanjiv Kalia, learned counsel for applicant and Mr. N D Kaushik, learned counsel for respondents.

5. The charge leveled against the applicant reads as under:-

“Article-I

Shri Brahm Pal singh, while functioning as P/A/SPM at Shastri Bhawan PO, N Delhi-110001 from 10-07-07 to 13-06-08 failed to deposit the cash collected by him at booking counter (IIInd shift) on various days while on duty in the accounts of the Post Office as out of account on the date of collection & did not account for it to be included in the accounts of following day. This misappropriation of Govt. cash by him on various dates amounted in total to Rs.88439/- (Rs. eighty eight thousand four hundred & thirty nine only) by doing so he contravened Rule 84, Chapter II of Postal Manual volume PI Part III.

Sh. Brahm Pal Singh, Postal Assistant, by doing the acts as above alleged to have failed to maintain absolute integrity, devotion to duty & has behaved in a manner unbecoming of a Govt. servant, thereby violating Rule 3 (1) (i) (ii) & (iii) of CCS (Conduct) Rules, 1964.”

6. The record is not clear as to whether the applicant filed any written explanation. The fact, however, remains that the inquiry officer was appointed, and on 06.03.2009, the inquiry officer informed the disciplinary authority that the applicant pleaded guilty before him and the charge can be taken as proved. The disciplinary authority insisted that a regular inquiry be held. Accordingly, the inquiry was held and a report was submitted on 24.04.2009, holding that the charge is proved. The report of the inquiry officer was made available to the applicant. The gist of defence representation submitted by

the applicant on 01.05.2009 has been furnished by the disciplinary authority in the impugned order, as under:-

“1. That he was mentally disturbed due to reason that his father was suffering from urine bladder cancer for past 2 years & his treatment for said disease was at AIIMS & Ganga Ram Hospital New Delhi. Hence the mistake/problem has occurred to the department by him.

2. That he was not able fill Sub Office account as he was all alone & due to mental illness. His intention was clear towards his office & he doesn't want to make losses to them. He was always been honest in discharging his duties & will continue to do so.

3. That he doesn't want to waste time of officials of department in the matter as well as any case to continue against him. He is feeling sorry which has occurred due to his mental/family problems.

4. That he is sincerely apologizing & prayer of the official that to keep in mind his family's future. He will remain grateful & in future there will be no complaint from his side.”

7. From this, it becomes clear that the applicant did not take any exception to the report of the inquiry officer. Once the charge was proved and the applicant did not raise any objection to that, it was open to the disciplinary authority to impose the punishment. The charge of misappropriation and amount involved was ₹88439/-. The remittances in the Post Office are not phenomenal, but the maintenance of discipline is rigorous. Even a small lapse is taken seriously. The applicant claims that he has deposited the amount at a later stage. That hardly becomes relevant, once the charge is proved.

8. The disciplinary authority was in fact considerate and imposed the punishment of compulsory retirement, so that the applicant is not deprived of his pension, if eligible, and other benefits. The appellate authority has also taken the correct view of the matter. We do not find anything in the O.A., which warrants interference with the impugned orders

9. The O.A. is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri) (Justice L. Narasimha Reddy)
Member (A) Chairman

May 20, 2019
/sunil/