

**Central Administrative Tribunal
Principal Bench**

OA No.4237/2013

New Delhi, this the 8th day of August, 2019

**Hon'ble Justice Sh. L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Vinod Singh Rana, Age-41 years
S/o Sh. G.S. Rana
R/o-A-78, Ayurvigyan Nagar
DDA Flats, Delhi-32. ... Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. AIIMS through
The President & Hon'ble Minister
Ministry of Health & Family Welfare
Nirman Bhawan, New Delhi.

2. The Director
AIIMS, Ansari Nagar, New Delhi-29.

3. The Dy. Secretary & Chief Vigilance Officer
AIIMS, Ansari Nagar
New Delhi-29. ...Respondents

(By Advocates: Shri Avneesh Garg and Shri M.T. Reddy)

ORDER(ORAL)

Justice L. Narasimha Reddy:

The applicant was employed as LDC in the All India Institute of Medical Sciences, the respondent

herein. He was entrusted with the duties of Cashier. A charge memo was issued to him on 12.04.2012 alleging that he was instrumental in fraudulently generating cash receipts for a sum of Rs.21,850/- on 27th, 28th, 30th and 31st January, 2012 without reflecting the amount in the main accounts. The applicant submitted the explanation denying the charge. Not satisfied with the same, the Disciplinary Authority appointed the Inquiry Officer. Through his report dated 07.01.2013, the Inquiry Officer held the charge as proved. A copy of the report was furnished to the applicant and he submitted his explanation on 13.02.2013. Taking the same into account, the Disciplinary Authority passed an order dated 22.03.2013 imposing the punishment of removal from service. Aggrieved by that, the applicant filed an appeal. Through order dated 15.07.2013, the Appellate Authority reduced the punishment to the one of reduction to the lowest of time scale of pay to be in force for a period of five years. This OA is filed challenging the imposition of punishment as modified by the Appellate Authority.

2. The applicant contends that the charge itself was not clear and definite, and that he denied the same. It is stated that though as many as four witnesses were examined in the course of inquiry, none of them have spoken of the alleged fraudulent generation of the receipts by the applicant and despite that the inquiry officer held the charges as proved. He further submits that in his report, the inquiry officer gave a finding which far exceeds the text of the charge itself.

3. The respondents filed a counter affidavit opposing the OA. It is stated that the applicant was instrumental in fraudulently generating the receipts covering a sum of Rs.21,850/- without reflecting the same in the accounts of the Institute. It is stated that the applicant did not specifically deny the factum of generation of the receipts and though he named one Mr. Lokesh Kumar in the explanation, he did not elicit from that, that the said witness generated the receipts in question. It is stated that the IO has thoroughly analysed the evidence, adduced before him and recorded definite findings, and that even though the Disciplinary Authority imposed the punishment of removal, the

Appellate Authority has shown indulgence and modified the same to the advantage of the applicant.

4. Shri Sachin Chauhan, learned counsel for the applicant submits that the charge was very general in nature and no specific allegation was made against the applicant. He submits that none of the witnesses, examined in the inquiry, have spoken to the alleged fraudulent generation of receipts by the applicant. Another contention of the learned counsel is that the finding was recorded to the effect that the receipts were generated through Test Server which is not used in the regular course and the entire complexion of allegation has undergone a change. He submits that the punishment, as it stand now, is uncalled for and is also disproportionate to the proven charge.

5. Shri Avneesh Garg, learned counsel for the respondents on the other hand submits that the inquiry was conducted in a meticulous manner and even the technical staff, closely connected with the maintenance of the computers were also examined as witnesses. He contends that the Test Server was deliberately used by the applicant to ensure that the amount mentioned in

the receipts does not get reflected in the accounts. He submits that there is no factual or legal error in the entire proceedings and the OA deserves to be dismissed.

6. The charge framed against the applicant reads as under:-

“...has acted as an instrument in fraudulently generated the cash receipts of Rs.21,850/- (Rupees twenty one thousand eight hundred fifty only) on 27th, 28th, 30th and 31st January, 2012 on account user charges without their reflection and accounted of money in the Main Account.”

7. The allegation against the applicant is that he was instrumental in fraudulently generating the cash receipts covering a sum of Rs.21,850/-, without reflection of the amount in the main accounts. In the imputation, the contents of the charge were elaborated.

It reads as under:-

“IMPUTATION OF ARTICLE OF CHARGE:-

It has been reported by Sh. Yashpal UDC that while performing evening shift duty on 31.01.2012, a relative of patient at around 7 PM came at Central Admission Counter for refund of MRI test. While feeding particulars of patient in the computer as per receipt produced by him, name of patient and amount deposited by

patient could not be searched. Since computer generated receipt was bearing the name of Sh. Vinod Singh Rana, he immediately called Shri Rana. After feeding his ID he opened computer and tried to trace the patients particulars and amount, but he too could not trace the particulars of patient. There after they contacted Sh. Sushant, Data Entry Operator from NIC Cell. He too tried to trace the amount but failed and told them that he will sought out the issue in consultation with his seniors. Meanwhile patient of relative was told to come next day. The NIC Cell has investigated the matter and found that the particular cash receipt has been generated by Sh. Vinod Singh Rana and has also found that more cash receipts on 27, 28th, 30th and 31st January 2012 were also been generated by him as under:-

| Sr. No. | Receipt No. | Patient | Service | Amount |
|---|--------------------------------------|--|---|--------|
| Date Range of 28.01.2012 to 28.01.2012 | | | | |
| 1. | Accounts/21114/2010 dt. 27.1.2012 | Mr. Bhajan reg, No. AIIMS/24900/12 | For high contrast MRI Scan | 3,000 |
| 2. | Accounts/21115/2012 dt. 27.1.2012 | MR. Bhajan reg No. AIIMS 24900/12 | NMR item : for patients above 12 years | 2,000 |
| 3. | Accounts/21116/2012 dt. 27.1.2012 | Mr. Bhajan Reg. No. AIIMS/24900/12 | NMR Item: Charges for film | 500 |
| 4. | Accounts/21117/2012 dt. 27.1.2012 | Mr.Iba lal Reg. AIIMS/91 Reg No. AIIMS/0092 | Microbiology Item: Micro PCR Item: Micro PCR | 600 |
| Date range of 28.01.2012 to 28.01.2012 | | | | |
| | Accounts/21121/2012 dt. 28.1.2012 | Mr. Tsewang Reg. No. AIIMS/070 | Genetic Unit Item: Amniotic Fluid Culture | 3,500 |
| | Accounts/21122/2012 dt. 28.1.2012 | Mr. Anuj Reg. No. AIIMS/0080 | Microbiology Item : Micro PCR 9 | 900 |
| | Accounts/21127/2012 dt. 28.1.2012 | Mr. Ashok Srivastava Reg. No. AIIMS/0090 | Haematology Item: IPT/AC, LEUK | 5,400 |
| Date range of 30.01.2012 to 30.01.2012 | | | | |
| | Accounts/21128/2012 dt. 30.1.2012 | Mrs. Tarawanti Reg. AIIMS/143034 | Nclear Medicine Item : Bone Scan | 350 |
| | Accounts/21129/2012 dt. 30.1.2012 | Mr. S.K. Karan Reg. No. AIIMS/0030 | NMR Item : For Patients Above 12 years | 2,000 |
| Dated range of 31.01.2012 to 31.01.2012 | | | | |

| | | | | |
|--|--------------------------------------|---------------------------------|----------------------------|-------|
| | Accounts/21148/2012 dt. 31.1.2012 | Mr. Naim Reg. No. AIIMS/0060 | Haematology Item: RTPCR | 3,000 |
|--|--------------------------------------|---------------------------------|----------------------------|-------|

This act of Sh. Vinod Singh Rana is in violation of CCS (Conduct) Rules, 1964 and he is responsible for gross misconduct on his part.

Shri Vinod Singh Rana, LDC is, thus, responsible for gross misconduct, has failed to maintain absolute integrity, devotion to duty and has acted in a manner which is unbecoming of an employee of the Institute thereby contravening Rule 3(I) (i) (ii) & (iii) of the C.C.S. (Conduct) Rules 1964, which is applicable to the employees of the Institute.

8. Not only the acts and omissions on the part of the applicant, but also the particulars of the patients and the amounts involved are mentioned in the imputation.
9. The applicant did not dispute that the receipts in question, reflected his name, as the one who generated them. In his explanation, he did not state that he did not generate the receipts at all. The explanation is very brief and it reads as under:-

"Your above memorandum dated 4th April 2012 containing the following Article of Charge has been received by me on 7th April 2012.

Article of Charge:-

That the said Shri Vinod Singh Rana, Lower Division Clerk while functioning as Assistant

Cashier at Central Admission Counter of the Institute has acted as an instrument in fraudulently generated the cash receipts of Rs. 21,850/- (Rupees Twenty One Thousand Eight Hundred Fifty Only.) On 27th, 28th, 30th and 31st January 2012 on account user charges without their reflection and accounted of money in the Main Account. This act of Shri Vinod Singh Rana, LDC is in violation of CCS (Conduct) Rules. 1964 and he is responsible for gross misconduct on his part.

In reply to the above mentioned Charge, I may submit that the Charge levelled against me is not based on facts. As such I deny the charge and would further request that I may please be given an opportunity to be heard in person.

In this connection I would further like to mention that being new to this system of Data Entry Operation which had been introduced in the Institute, this entire Conspiracy had been hatched by Sh. Lokesh Kumar, DEO whose services have been terminated on that ground. I strongly feel that during my short spell of absence, Sh. Lokesh Kumar may have generated these receipts and committed this Fraudulent Act.

I may like to add that during my 20 years of Services, I had maintained clean Service record which aspect may be verified for further consideration of my case."

10. Except by stating that Mr. Lokesh Kumar may have generated the receipts, the applicant did not state as to how the receipts with his name as operator came

into existence. Not a word was said as to how any third person has access to his password.

11. Had it been an ordinary or general allegation with reference to an unidentifiable document, heavy burden rested upon the department to connect the receipts in question with the applicant. The receipts reflect the name of the applicant as the one who generated them. In case the applicant was of the view that somebody else generated them in his name, he owed an explanation as to how it was possible for others to do so. It is only by using his password that the receipts can be generated in his name and nowhere he has stated that his password was shared with others. There is also a facility of changing the password, if the user suspects that it came to the knowledge of a third person.

12. Once the applicant named Lokesh Kumar as the one who may have generated the receipts, he was supposed to examine that person. Incidentally, Shri Lokesh Kumar was examined as a witness, by the department itself. Nowhere in the cross examination, the applicant has suggested that Lokesh Kumar has

generated those receipts. He wanted to cover up his case by making a suggestion that Lokesh Kumar was removed from service by his employer on the allegation of generation of some fraudulent receipts. It was not even suggested that those fraudulent receipts are the ones that are subject matter of the inquiry.

13. It is true that during the course of inquiry, it emerged that the receipts were generated through the Test Server. A perusal of the report of the inquiry officer, on this aspect, makes it clear as to why the Test Server was used. He observed as under:-

"SW-4, Sh. Sudhir Kumar, Technical Director, NIC, AIIMS, in his deposition during inquiry has stated that as mentioned in Ex.S.3, after investigation, it was found that the particular cash receipts were generated by Cashier from the Test Server. There are two different machines, one is called test server and other is called production (main) server. The receipts which are generated in the test server are not accounted for in the production server as these are two separate machines. Test server is used for training and testing purposes. Keeping secrecy of a particular password, is the responsibility of the user. The URL addresses of both testing and production servers are different. The user can change the password as and when required. In his cross-examination, SW-4 has stated that the CO was given on the job training. The password can be misused by someone other than the user, if the same is

shared with others. Normally the person who issue receipts, should put his initial/signature."(Emphasis Supplied)

14. From perusal of this, it becomes clear that if any receipt is generated from the Test Server, the amount does not go into the account. Obviously, for that reason the receipt was generated from that server with a clear intention. Once the applicant did not dispute that the receipts are in his name and he did not deny the generation thereof, the finding of the inquiry officer can be found fault with.

15. It is not uncommon that in matters of this nature, what is noticed on certain occasions is only a sample and fraud of very high magnitude goes unnoticed. If the person in charge of the cash counter does not exhibit the required amount of honesty, the very survival and existence of the institution, which depends upon the income generated through services rendered by it, becomes doubtful. Fortunately for the applicant, the Appellate Authority was considerate and reduced the punishment to the minimum possible level.

16. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/