

**Central Administrative Tribunal
Principal Bench**

**OA No. 1560/2014
MA No. 2107/2013**

New Delhi, this the 19th day of September, 2019

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

R. C. Verma,
Postal Asstt. (U/D)
Etah HO, Etah.

.... Applicant.

(By Advocate : Mr. Shoeb Shakeel)

Vs.

1. Union of India,
Through Secretary, Ministry of Communication,
Department of Posts, Dak Bhawan, New Delhi.
2. The Director Postal Services,
O/o the Postmaster General,
Agra Region, Agra.
3. The supdt. Post Offices,
Etah.

... Respondents.

(By Advocate : Mr. R. K. Jain)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman :

The applicant was working as Sub Post Master (SPM) of Raja Ka Rampur Post Office in the year 2004. A Charge memorandum was issued to him on 29.06.2010, alleging that the applicant collected a sum of Rs. 1,00,000/- each on 12.08.2004 and 12.09.2004, respectively, for the purpose of

opening an MIS Joint “B” account in the name of one Mr. Rajeev Kumar Singh and his wife Mrs. Rakhee Rathore and issued passbooks also. It is stated that having received the amount the applicant did not remit the same to the account of the Government and the account holders submitted complaint against the acts of fraud by the applicant. As many as 07 articles of charge were framed.

2. The applicant submitted his reply denying the charges framed against him. Not satisfied with that, the Disciplinary Authority appointed the Inquiry Officer, who in turn submitted a report on 01.06.2011. He held articles 03, 06 and 07 of the charge memorandum as ‘proved’ and remaining i.e. 01, 02, 04 and 05 as ‘not proved’. The Disciplinary Authority issued disagreement note in respect of charge 01, 02, 04 and 05. On consideration of the reply submitted by the applicant, he passed an order dated 07.06.2011 imposing the punishment of Compulsory Retirement and withholding of 1/3rd of gratuity. The applicant preferred an appeal provided for under the relevant rules. The Appellate Authority rejected the same through order dated 02.02.2012. This OA is filed challenging the order of punishment and the order of Appellate Authority.

3. The applicant contends that the very complaint submitted against him was motivated and the same is evident from the fact that the FIR registered against him with relation to the same allegations has resulted in final report of closure on finding that allegations were not true. It is submitted that the punishment imposed against him is too harsh and that there was no basis for withholding of the gratuity, particularly when, the department did not suffer any monetary loss.

4. Respondents filed a detailed counter affidavit opposing the OA. It is stated that the allegations against the applicant are very serious in nature and before the disciplinary proceedings were instituted, the inquiry was conducted by constituting a team and the various acts on the part of the applicant were noticed. They contend that the main charge against the applicant namely receipt of amount from the depositor and issuing of fake passbooks by misusing the seal were held proved. Respondents contend that the punishment imposed against the applicant is proportionate to the charges held.

5. We heard Mr. Shoeb Shakeel, learned counsel for the applicant and Mr. R. K. Jain, learned counsel for the respondents.

6. The applicant was handling the Post Office at Raja Ka Rampur in the year 2004. The acts alleged against him with reference to that period are evident from the articles of charge framed against him. They read as under:-

“Article No. -1

Whereas Shri R. C. Verma while working as SPM Raja Ka Rampur had accepted Rs. 1,00,000/- from Shri Rajeev Kumar Singh Advocate for opening of MIS Joint “B” account in the name of 1- Shri Rajeev Kumar Singh 2- Smt. Rakhee Rathore wife of Shri Rajeev Kumar Singh residence of Village and Post Shahpur Tehla Distt. Etah on 12.08.2004. The said Shri R.C. Verma neither ensure the proper procedure for opening of MIS Joint “B” account thorough his office PA nor ensure to the proper accounting to Govt. Money on 12.08.2004. Shri R. C. Verma had to arrange the preparation of MIS Joint “B” pass book having no. 10210150 in the name of said 1-Shri Rajeev Kumar Singh 2- Smt. Rakhee Rathore wife of Shri Rajeev Kumar Singh showing the initial deposit of pass book Rs. 1,00,000/-. It is alleged that Shri R. C. Verma while working as SPM Raja ka Rampur on 12.08.2004 had misappropriated govt. money worth Rs. 1,00,000/- thereby violated the provision of Rule no. 159-9(&4) of PO SB Manual Volume-I.

Article no. – 2

Whereas Shri R. C. Verma while working as SPM Raja ka Rampur had accepted Rs. 1,00,000/- from Shri Rajeev Kumar Singh on 12.09.2004 (Sunday) for opening of MIS Joint “B” account in the name of (i) Shri Rajeev Kumar Singh (ii)-Smt. Rakhee Rathore wife of Shri Rajeev Kumar Singh resident of village and post Shahpur Tehla Distt. Etah but the said shri R. C. Verma did not take the amount of Rs. 1,00,000/- in Govt. account and made or arrange to MIS pass book having no. 10210153 in the name (1) Shri Rajeev Kumar Singh (2) Smt. Rakhee Rathore wife of Shri Rajeev Kumar Singh Village and Post Shahpur Tehla Distt. Etah showing the initial deposit in aforesaid amount of Rs. 1,00,000 as SPM Raja ka Rampur on 12.09.2004 had misappropriated Govt. money worth Rs. 100000.00 violate the provision of Rule no. 159-9(3&4) of Postal SB Manual Volume-I.

Article no.-3

Whereas Shri R. C. Verma while working as SPM Raja ka Rampur on 12.8.2004 and 12.9.2004 had misused the office stamp being joint custodian during working hours and custodian during off hours on 12.8.2004 and 12.9.2004 misused as custodian (being Sunday). It is therefore alleged

that the said Shri R. C. Verma while working as SPM Raja Ka Rampur on 12.8.2004 and 12.9.2004 had violated the provision of Rule no. 21(2)(3) of Postal Manual Volume VI part 1.

Article no. - 4

Whereas Shri R. C. Verma while working as SPM Raja Ka Rampur on 12.8.2004 and 12.9.2004 accepted Rs. 100000.00 in each date of opening of joint "B" MIS account in the name of 1-Shri Rajeev Kumar Singh 2- Smt. Rakhee Rathore wife of Shri Rajeev Kumar Singh resident of village and post Shahpur Tehla Raja Ka Rampur Etah. But did not noted in MIS long book of RKR PO on 12.8.2004 and 12.9.2004 thereby not accounted the Govt. money worth Rs. 200000.00 in Govt. account. It is therefore alleged that Shri R. C. Verma while working as SPM Raja Ka Rampur on 12.8.2004 and 12.9.2004 had failed to follow the instructions as contained in Rule no. 10 of Postal Manual Volume -I.

Article no. 5

Whereas Shri R. C. Verma while working as SPM Raja Ka Rampur on 12.8.2004 and 12.9.2004 had either personally prepared and issued or arrange to prepare and issued Joint "B" MIS Pass book having no. 10210150 and 10210153 showing initial deposit of Rs. 100000.00. But did not deduct in Raja Ka Rampur PO stock register of blank pass book showing the details of MIS blank pass books on page no. 21. It is therefore alleged that the said Shri R. C. Verma while working as SPM Raja Ka Rampur on 12.8.2004 and 12.9.2004 had failed to follow the instructions of Rule no. 6-1(2)(2a)(2b) of PO SB Manual Volume-I.

Article no.-6

Whereas Shri R. C. Verma while holding the charge of supervisor post of SPM Ship of Raja Ka Rampur PO on 12.8.2004 and 12.9.2004 had neck and croply failed to exercise the duty of supervisor. The said Shri R. C. Verma did not transferred the charge of SPM Raja Ka Rampur on 23.9.2005 by making list of documents transferred to relieving official thereby alleged that Shri R. C. Verma while transferring the charge of SPM ship of Raja Ka Rampur PO had not transferred the attendance register book of postmark and SO account dated 12.8.2004 and 12.9.2004 with ill motive intension to hide his guilt. It is therefore alleged that Shri R. C. Verma while working as SPM Raja Ka Rampur on 12.08.2004 and 12.09.2004 had violated the provision of Rule no. 3-2 (i) of CCS (Conduct) Rules 1964.

Article no.-7

Whereas Shri R. C. Verma while working as SPM Raja Ka Rampur PO on 12.8.2004 and 12.9.2004 had accepted

Rs. 100000.00 and Rs. 100000.00 and respectively for opening of Joint "B" MIS account in the name of (i) Shri Rajeev Kumar Singh (ii) Smt. Rakhee Rathore but neither noted in MIS long book nor credited in govt. account on 12.8.2004 and 12.9.2004 thereby alleged to fail maintain high degree of standard of sound integrity and absolute devotion to duty and acted in such a manner which is not expected by a govt. servant as well as misuse of his official position. Thus it is alleged that the said Shri R. C. Verma while working as SPM Raja Ka Rampur on 12.8.2004 and 12.9.2004 had violated the provision of Rule 3(1) (i) (ii) and (iii) of CCS (Conduct) Rules 1964 and G.I. Deptt. of personal and Trg. O.M. No. 11013/10/93. Estt (A) dated 6.10.93."

7. The very foundation of the case against the applicant is the alleged receipt of Rs. 1,00,000/- each on 12.08.2004 and 12.09.2004, respectively, from one Mr. Rajeev Kumar Singh and his wife Mrs. Rakhee Rathore. In a way, there is resemblance and repetition of the allegations. What is contained in Article 01 and 02 in detail, is contained in Article 07 in a summary form. The IO held charge 07 as proved. When that is so, there was absolutely no necessity even for issuing a disagreement note also. The DA dealt with each and every issue raised by the applicant regarding the allegations made against him. It should also be said to the credit of the AA that every paragraph in the memorandum of appeal was discussed in detail and the conclusions were incorporated.

8. The inquiry was elaborate in nature and more than 10 witnesses were examined. The applicant is not able to point out that he has elicited any relevant information in his

favour, in the course of examination of witnesses. The applicant did not examine any witnesses on his part. The IO has followed the prescribed procedure and submitted a report holding articles 03, 06 and 07 of the charge memorandum as 'proved' and rest as 'not proved'. That only shows his objective and impartial nature. As observed earlier, once charge No. 7 is proved, substantial part of the case against the applicant stands established. This is not a case where the report of the IO is based on no evidence or that his findings are perverse in nature.

9. Now remains the question of quantum of punishment. The punishment of Compulsory Retirement is comparatively less in degree, compared to the one of dismissal or removal. So far as the order directing forfeiture of 1/3rd of gratuity is concerned, we are of the view that in the order of punishment it was not mentioned that department had paid an amount of Rs. 2,00,000/- with interest to the holders of the passbooks. It is only when the amount is paid, that the department can be said to have sustained monetary loss. Deduction of un-quantified amount cannot be sustained. At the same time, we make it clear that if any amount was paid against the 02 passbooks, the same can be deducted.

10. We, therefore, partly allow the OA upholding the punishment of Compulsory Retirement but setting aside the one, through which 1/3rd of the gratuity was forfeited. However, in case any amount is paid towards the passbooks, which are the subject matter of the inquiry, the same shall be liable to be deducted not exceeding 1/3rd of the gratuity. The exercise in this behalf shall be completed within a period of two months from the date of receipt of certified copy of this order. MAs, if any, shall stand disposed of. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ankit/