

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00733/2018

DATED THIS THE 7th DAY OF AUGUST, 2019

HON'BLE SHRI DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI CV.SANKAR MEMBER (A)

Veerabhadrayya Swamy,
S/o Adivayya Swamy,
Aged 52 years,
Ex-GDS BPM,
Dhannur (K)BO
A/w Basavakalyan SO 585 327
Residing at Dhannur (K)
Basavakalyan Taluk
Bidar District 585 327

.....Applicant

(By Shri AR.Holla..... Advocate)

vs.

1.Union of India,
By Secretary,
Department of Posts,
Dak Bhavan,
New Delhi – 110 001.

2.The Director of
Postal Services,
Office of the Post
Master General,
N K Region,
Dharwad-580 001.

3.The Superintendent of
Post Offices,
Bidar Division,
Bidar 585 401.

....Respondents

(By Shri NB.Patil ... Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

1. Heard. This matter is in a very small compass. It appears to us that only one charge is relevant that he had not accounted for an amount of Rs.2792/- apparently vide Annexure-A2 which we quote now:-

“ On 24.9.2013 after completing the payment at Yadlapur village, I came to Branch post office at 1000 hours at Dhannura K village and started payment of OAP eMOs. At that time SPOs Sri B Jaganath Rao visited my office and started inspection. At the time of counting of cash, I informed SPOs that Rs.2800 was at my home in yesterday's shirt pocket. I requested SPOs that I will go to my home and bring Rs.2800. But SPOs did not allowed me to go to home and even not allowed me to call to my son to bring the cash from home. When I tried to call my son, then SPOs had taken my mobile phone and kept with him until completion of inspection & preparation of daily account. SPOs had forced me to give a statement as per his dictation & scared me stating that “if you not give statement as per my dictation, I will remove you from the service immediately” I had prayed to then SPOs that give me 5 minutes to go to my house situated near the Branch office and bring the cash, but he did not accept my request and told me “I will not give you any time & I want this”

2. He had given an explanation that apparently the money had origin on the previous day. It was in his pocket in the shirt which

he had left at home and forgotten to bring it. Learned counsel for the respondents would submit that during the enquiry he had admitted. But then, we had noted in thousand different cases like this that when low level people like GDS employee is told that if you admit it we will let it go. But then his immediate reaction is to believe his senior officer and admit it. But then prior to that he had issued Annexure-A2 which seem to us to be reasonable and justifiable. There does not seem to be anything in the matter. The concerned Inspector ought to have either accompanied him to the house to see that whether that amount is seen in the pocket as alleged. Having failed he cannot now turn around and say that that is an infraction. One moment's forgetfulness cannot mean the destruction of a livelihood. We, therefore hold that this is a case of absolute lack of any evidence. The whole process is quashed. Applicant to be reinstated back with all benefits within next 2 months. OA is allowed.

3. At this point of time a mention is made by the Learned counsel for the respondents that total cash mentioned was different. That may not be an issue at all as mensria only creates an infraction. A mere case of forgetfulness will not create mensria. The other cash mentioned was either in the Cash Box or in transit as admitted by the respondents. That cannot in any case create an infraction. What the concerned Inspector should have done is that when a defence has been set up ipso-facto immediately by the

applicant he should have gone along with the applicant to the house and see that whether this amount is kept in the pocket there or not . Had it not been so then the defence would have failed. As it was not done an adequate opportunity which was in the capability of the concerned officer to give was deliberately or without knowing the consequences of it denied. Therefore, the benefit of it will go only to the applicant. OA is, therefore, allowed. No order as to costs.

(CV.SANKAR)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

bk.

Annexures referred to by the Applicant in OA.No.733/2018

Annexure.A1- Copy of memo dated 25.1.2015

Annexure.A2- Copy of applicant's representation dated 27.1.2015

Annexure.A3- Copy of the Inquiry report dated 30.6.2017

Annexure.A4- Copy of letter dated 10.7.2017

Annexure.A5- Copy of applicant's representation dated 22.7.2017

Annexure.A6- Copy of order dated 28.8.2017

Annexure.A7- Copy of applicant's appeal dated 27.9.2017

Annexure.A8- Copy of order dated 5.6.2018

Annexures referred to by the Respondents in Reply

Annexure-R1- Copy of Table

Annexure-R2- Copy of statement

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