

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

ORIGINAL APPLICATION NO. 310/00433/2016

Dated Monday ,the 29th day of July, 2019

PRESENT

**Hon'ble Mr.Justice L.Narasimha Reddy, Chairman
&
Hon'ble Mr.T.Jacob, Member(A)**

M.Jayakanthan
S/o. Mookka Gounder,
Pompatti Village,
Morappur S.O.
Dharmapuri District,
PIN- 635 305.

By Advocate M/s Malaichamy

Vs.

1. Union of India,
Rep by the Director of Postal Services,
Western Region(TN),
Coimbatore- 641 002.
2. Superintendent of Post Offices,
Dharmapuri Division,
Dharmapuri – 636 701.
3. Sub- Divisional Inspector(Posts)
Harur Sub-Division,
Harur- 636 903.

By Advocate Mr.M.Kishore Kumar

ORDER

(Pronounced by Hon. Mr. Justice L. Narasimha Reddy, Chairman)

This is the third round of litigation instituted by a Gramin Dak Sevak (GDS), generally known as Village Postman. The applicant was functioning as GDS MD/MC attached to Elavadai Post Office, having been appointed in the year 1998. In the year 2004, when the Branch Postmaster was not available, the applicant was kept in charge of the said post. The Assistant Superintendent of Post Offices from the office of Superintendent of Posts, Dharmapuri Division inspected the Elavadai post office on 21.09.2004. It was found that the sales upto 20.09.2004 were of Rs.2078.10 and on 21.09.2004, the applicant received cash of Rs.1200 from the Post office towards Money Orders. It was found that a sum of Rs.600 was paid to one customer and instead of there being cash balance of Rs.2678.10, only Rs.900.25 was available.

2. On finding that there was a shortage of Rs.1777.85, a charge memo was issued to the applicant on 20.06.2005. On the admission made by the applicant about the discrepancy, punishment of removal from service was imposed, vide order dated 28.11.2005. Aggrieved by that, the applicant filed OA 501/2006 and that was allowed on 18.07.2007 with a direction to conduct enquiry. After conducting enquiry, the disciplinary authority passed an order dated 30.10.2007 imposing the punishment of removal from service. The applicant filed OA 396/2008 challenging the same. The OA was allowed on 08.09.2009 and the order of removal was set aside. Liberty was given to initiate a fresh enquiry. In compliance with the same, fresh enquiry was conducted and through an order dated 05.05.2015, the applicant was removed from service. The same is under challenge in this OA.

3. The applicant contends that though he was a GDS MD/MC, he was

kept in charge of the higher responsibility of Branch Postmaster and not being conversant to the procedure, he will not be able to explain the things during the course of the inspection. He contends that on account of there being no proper safety in the Post office, he kept the amount at his residence and the same was not taken note of by the inquiry officer or the disciplinary authority. Various other grounds have also been pleaded.

4. The respondents have filed a detailed reply. It is stated that this is the third round of litigation and though every step was meticulously followed, the applicant went on filing OAs, one after the other. According to them, the charge against the applicant is very serious and punishment was imposed accordingly.

5. We heard Mr.R.Malaichamy, learned counsel for the applicant, and Mr.M.Kishore Kumar, learned counsel for the respondents.

6. The brief background of the case has been furnished in the preceding paragraphs. The applicant was issued a charge memo initially on 20.06.2005 and on the basis of admission made by him, he was removed from service on 28.11.2005. Thereafter successive OAs came to be filed vis-a-vis the orders passed by the disciplinary authority. The article of charge that gives rise to the dismissal of the applicant reads as under:

“Shri.M.Jayakanthan, GDSMD/MC while working as GDSBPM combined with duty of BPM, Elavadai BO a/w Morappur SO had kept the office cash and stamp balances short by Rs.17777.85 during the annual inspection taken up by ASP(OD), O/o Supdt. Of Post offices, Dharmapuri Division, Dharmapuri on 21.09.2004.

Thus it is imputed that Shri M.Jayakanthan had failed to observe the provisions of Rule 11(2) of Rules for Branch offices (Sixth edition, 2nd Reprint) and thereby failed to maintain absolute integrity and devotion to duty as required under Rule 21 of Department of Posts, Gramin Dak Sevaks (Conduct and Employment) Rules 2001.”

It is true that a Branch Postmaster is required to meticulously maintain the accounts and the cash and any discrepancy would prove to be fatal. As regards the maintenance of the cash by the Post Masters etc., instructions which are issued and Note 11 thereof read as under:

'11.Custody of cash.-(1)It may not be necessary to supply a safe to every extra departmental branch office, but one may at the discretion of the Supdt. Post Offices be provided on the report of the S.D.I supported by the recommendation of the S.D.I.

(2)When a safe is supplied to a branch office, the cash, postage stamps, articles in deposit, stamps and seal, and in short, all articles of value including money order forms should be locked up in it, special care being taken to lock up insured articles in deposit and the B.P.M should keep the key or keys on his person by day and night. The greater portion of the stock of postage stamps of the office should always, even during the day time, be kept inside the safe, and only the stamps required for a day's sales, or half a day's sales should be taken out at a time.

Note.- All G.D.S.B.P.Ms whether their offices are provided with iron safes or not should make their own arrangements for the safe custody of cash and valuables on their own responsibility. They are at liberty to keep the cash and valuables wherever they like provided that they are available when required and that, when called for, they can be produced for inspection within the time required for going to and coming back from the place where the cash is kept for safe custody."

This shows that each Branch Postmaster or the Branch office is to be provided with a safe. Though the applicant contended that no safe was provided to the BO at Elavadai Post office, we do not intend to deal with the same, in detail.

7. The record, no doubt, discloses that there was discrepancy in the cash and the applicant was not able to produce the amount immediately. The fact, however, remains that though with delay of some few minutes, he arranged for it and that in fact, is contemplated under Note extracted above.

8. What, however, impresses us is that the applicant was not a regular Postmaster and he was just a Postman. He did not have the experience or expertise in handling the post office. The discrepancy

pointed out above, though may justify imposition of punishment, cannot be a factor to take away his livelihood. We are of the view that any punishment, other than one of removal from service can be imposed against the applicant having regard to the fact that the acts of indiscipline are referable to the post held by him as in charge; and that he is an employee in the bottom of the hierarchy in the department. The benefit of backwages can also be denied to him.

9. We, therefore, partly allow the OA setting aside the order of the punishment, but leaving it open to the disciplinary authority to impose a punishment other than one of removal from service by denying him the benefit of backwages. We also record the undertaking given on behalf of the applicant that if any punishment of that nature is imposed, he shall not challenge the same as being the one disproportionate to the acts alleged against him. The above exercise shall be done within a period of two months from the date of receipt of a copy of this order. OA is partly allowed. There shall be no order as to costs.

(T.JACOB)
MEMBER(A)

29.07.2019

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

M.T.