

**Central Administrative Tribunal
Madras Bench**

OA/310/00297/2013

Dated the 13th day of June Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

P.Balakrishnan
S/o Parasuraman,
No.3024, Mariamman Koil Street,
Ramanathapuram Colony,
Santhavasal S.O.,
Tiruvannamalai 606 905. .. Applicant
By Advocate **M/s.R.Malaichamy**

Vs.

1. Union of India, rep by the
Director of Postal Services,
O/o the Postmaster General,
Chennai City Region,
TN Circle, Anna Salai,
Chennai 600 002.
2. The Superintendent of Post Offices,
Tiruvannamalai Division,
Tiruvannamalai 606 601. .. Respondents

By Advocate **Mr.S.Nagarajan**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“1) To call for the records of the 2nd respondent pertaining his charge sheet made in memo No.F1/2/98-99 dated 25.5.1999 and his proceedings in dismissing the applicant from service made in memo No.F1/2/98-99 dated 18.8.2010 and the order of 1st respondent made in memo No.VIG/App/2-77/2011/CCR dated 23.5.2012 confirming the order of the 2nd respondent dated 18.8.2010 and set aside the same; consequent to

2) direct the respondents to reinstate the applicant into service with all attendant benefits;

3) to pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case.”

2. The applicant was engaged as GDS BPM, Ammankoil Padavedu B.O. Alongwith Santhavasal S.O. and the respondents had issued a charge memo on 25.5.1999 alleging that the applicant has committed various irregularities. The applicant has filed a reply denying the charges levelled and the enquiry was completed and a report was filed before the Disciplinary Authority (DA) after some delay in the year 2009. The Inquiry Officer (IO) found the charges 1,4&5 levelled against him as not proved and charge No.3 was found proved. The matter was placed before the DA. The DA, after careful perusal of the matter took a different opinion and the applicant was imposed with a penalty of “Dismissal from Service”. The applicant filed an appeal before the 1st respondent on 06.9.2010. The Appellate Authority (AA) had rejected the appeal on 13.5.12 confirming the punishment

imposed on him. According to the applicant, the entire charges were fabricated by one I.Rangasamy, the then SPO who visited the Post Office. According to the applicant, the said SPO took an amount of Rs.10,000/- from the Post Office and deposited the same in the UCR account instead of showing it as remittance from A.K.Padavedu B.O. To Santhavasal S.O. According to the applicant, the inquiry was not proper and it was conducted in prejudicial manner and the order of punishment is liable to be set aside.

3. The respondents has entered appearance and filed the statement denying the allegations in the OA and submitted that the applicant was issued a charge memo under five heads and the DA found charge No.2,3&4 as proved. Accordingly, the DA has ordered for the dismissal of the applicant on 18.8.2010 as per Annexure A6 order. Thereafter the applicant has taken the matter in appeal as per Annexure A7 and the Director of Postal Services (DPS) has rejected the appeal confirming the order of "Dismissal" as per Annexure A7 order dated 23.5.12.

4. The main contention of the applicant in this case is that the inquiry conducted in this case was not proper and the Rangasamy, SPO who had inspected the Post Office was not examined by the IO and this has prejudiced him. According to him, the said Rangasamy was having some ill-will against him and he had taken the money from the Post Office only to raise charges against the applicant. The DA had wrongly disagreed with the inquiry report and passed a punishment which is disproportionate in nature. The applicant filed an appeal before the 1st respondent and the 1st respondent had also without going into the merits of the case rejected the

appeal on 23.5.12. So, the applicant prays for quashing the entire proceedings and seek to reinstate.

5. On the other hand, counsel for the respondents would contend that the applicant has not proved any malafide or arbitrariness on the part of the respondents and there is nothing on the record to show that the respondents had acted purposefully to remove him from service. It was also contended by the counsel for the respondents that the applicant has committed misappropriation and he is not a fit person who can be entrusted with public money and he cannot be permitted to continue in service.

6. We have anxiously heard both sides and perused the pleadings. It has come out during hearing that the applicant in this case was charged with 5 types of misappropriations in the charge memo produced and marked as Annexure A1. He has not properly maintained the cash and stock balance and suppressed deposits made to RD, did not effect payment of money orders etc. and he was also found in possession of excess of cash of Rs.10,000/- kept in the Post Office when the said Rangasamy, the then SPO inspected the Post Office. Though the applicant would contend that the said Rangasamy was in enmical term with him, nothing was brought out to show that the entire incident has taken place out of enmity between Rangasamy and the applicant. The said Rangasamy was reported dead and the IO could not examine him as witness in this case. But this is not sufficient to show that the inquiry was not conducted in a fair manner. On a perusal of the pleadings, it can be seen that the applicant was issued with a charge memo as Annexure A1 and he was also given

an opportunity to explain the circumstances before the inquiry. Thereafter inquiry was also conducted step by step and the applicant was also given a chance to adduce evidence on his side. Thereafter the IO has filed a report before the DA. The DA has come to the conclusion that the charges levelled as 2,3&4 were proved and he ordered for imposing the penalty of “Dismissal” as Annexure A6. Thereupon the applicant filed an appeal as Annexure A7 and DPS after examining the appeal has rejected the appeal on 23.5.12 confirming the penalty imposed by him. So, from the above, it can be seen that the respondents have conducted the inquiry in a fair and reasonable manner and the applicant was given all opportunities to put forward his case during the inquiry. There is no material available to interfere with the disciplinary proceedings and inquiry initiated in this case. The scope of interference in these types of cases is very limited and the Tribunal will not be justified unless there is occurrence of any malafide or arbitrariness or violation of natural justice. As regards punishment is concerned, it is the discretion of the DA and it has to be left to the department for taking the decision. In ***Prem Nath Bali v. Registrar, High Court of Delhi [2016 (148) FLR 736]*** –

“It is a settled principle of law that once the charges levelled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

Once such discretion is exercised by the appointing

authority in inflicting the punishment (whether minor or major) then the Courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment.”

The Tribunal is not expected to sit in appeal regarding the punishment imposed and it will be justified to interfere in such matters only when the punishment imposed is shockingly disproportionate. Here, it has been brought out that the applicant is in the habit of misappropriating public money and such person cannot be kept in service. It is only because of that the competent authority has ordered the dismissal for the applicant. The applicant was given all opportunities for making representation and we do not find any reason to interfere with the punishment imposed in this case. There is no merit in the contention of the counsel for the applicant that the punishment given is shockingly disproportionate and we find no merit in the OA and the OA is liable to be dismissed.

7. Accordingly, we dismiss the OA. No order as to costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

13.06.2019

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