

**Central Administrative Tribunal
Madras Bench**

OA/310/01139/2014

Dated the 2nd Day of August Two Thousand Nineteen

P R E S E N T

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

A.Sankar
GDS BPM,
Thavalaveeranpatti B.O.,
Tharagampatti S.O. 621 311. .. Applicant
By Advocate **M/s.M.Sankar**

Vs.

1. Union of India, rep by the
Secretary,
Department of Post,
DAK Bhavan,
New Delhi-01.
2. The Director of Postal Services,
O/o the Postmaster General,
Central Region-TN,
Tiruchirapalli 620 001.
3. The Superintendent of Post Offices,
Karur Division,
Karur 639 001. .. Respondents

By Advocate **Mr.G.Dhamodaran**

ORDER

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

This is an OA filed seeking the following relief:-

“.....to set aside the order of dismissal passed by the 2nd respondent vide Memo No.STC/3-5/2014 dated at Tiruchirapalli-620001 the 13.03.2014 confirming the order of dismissal passed by the 3rd respondent vide Memo No.F1/VI/04/12-13 dated 30.12.2013 and consequently reinstate the applicant in service.”

2. The case of the applicant is that he was working as GDS BPM at Thavalaveeranpatti Branch Post Office from 03.4.1988 onwards. According to him, on 13.2.2013 the Inspector of Posts, Manaparai Sub Division had inspected the Post Office and placed him under put off duty and it was ratified by the Superintendent of Post Offices, Karur Division. According to him, the respondents had issued a charge memo under Rule 10 of Department of Posts, Gramin Dak Sevak (Conduct & Engagement) Rule 2011 with 2 charges. After conducting enquiry, the Disciplinary Authority (DA) has removed him from service from 30.12.2013 onwards. According to him, the main charges alleged against him was a shortage of an amount of Rs.16,899.35 when the Mailoverseer inspected the office. According to the applicant, since the building in which the BPO was functioning was in a damaged condition, he had kept the amount safely in his house. Eventhough he said the above facts to the Mailoverseer, he did not permit him to take back the money which is at a distance of 300 meters away from the Post Office. The Mailoverseer immediately brought the

Inspector of Posts, Manaparai and further proceedings were taken and he was compelled to give a statement to the Inspector under duress. According to him, as per the rules of the Postal Department, the Postmasters were permitted to keep cash in a safe place which can be produced for inspection as and when necessary. According to the applicant, the complaint is a false and fabricated one for penalising the applicant. The allegation of misappropriation of money which came as Money Order (MO) is also a false statement. According to him, he has not fabricated the MO receipt which belongs to one Sivalingam. According to him, he had sought for sending the acknowledgement receipt to Forensic Department but the Enquiry Officer (EO) did not permit him to do so. According to him, the respondents had acted in an inimical manner and falsely fabricated this case in order to bring their interested persons to the said BPO. According to him, he is prejudiced by the way in which enquiry was conducted and seeks to set aside the order of dismissal passed by the DA. According to the applicant, even though he had given an appeal to the 2nd respondent on 09.1.2014 it was not disposed off by the Appellate Authority (AA) even on 30.7.14 when he filed the OA.

3. The respondents entered appearance and filed a detailed reply denying the allegations made against the respondents. According to the respondents, on 13.2.2013 at about 10.45 a.m. when the BPO was inspected by the Mailoverseer, there was a shortage of Rs.16,899.35 and the same was reported to the Inspector of Posts, Manaparai Sub Division. The Inspector of Posts immediately reached the BPO

and verified the account and he had also found that one Electronic Money Order (EMO) dated 03.10.2012 for Rs.3500/- which was payable to one Sivalingam was shown as paid in the BO Account by forging the signature of the payee. The payee further informed that he had not received the EMO as claimed by the applicant. It was also found that there was a shortage of cash of Rs.16,899.35. As the lapses were serious in nature, the applicant was issued with a charge memo under Rule 10 of GDS (Conduct & Engagement) Rules 2011. The applicant denied the charges levelled against him and he was given all opportunities for adducing evidence from his side. After conducting an enquiry, the EO filed his report and he was found guilty of both the charges and DA removed the applicant from service as per order dated 30.12.2013. The applicant was removed from service on the basis of the charges proved against him. According to the respondents, there is no reason for interfering in the finding of the DA and the OA is liable to be dismissed.

4. We have heard the counsel for the applicant and the counsel for the respondents. The main contention put forward by the counsel for the applicant is that the EO has not considered the fact that the money was actually kept in the house of the applicant and he never misappropriated the money. The Mailoverseer who had inspected the BPO had not permitted the applicant to bring the money from his house to the Post Office and this is a false case levelled against the applicant. It was also contended that the MO receipt kept in the BPO regarding the EMO received in the BPO is not a fabricated one even though he applied for sending the receipt for

examination of Forensic experts. But the EO did not permit the same. He was not given the opportunity to prove the falsehood of the allegation. So, the enquiry was conducted in a prejudicial manner. According to the counsel for the applicant, the Mailoverseer who had inspected the BPO and deducted the shortage of cash were on inimical term with him and this was done to bring their own persons to the said Post Office. So, according to him, the order of the DA is vitiated and is liable to be set aside.

5. We have carefully gone through the pleadings and perused the documents produced as Annexure A1 to A10 and R1 to R9. On a perusal of the records, it is seen that the applicant was put off from duty when there was found to be a shortage of cash which amounts to Rs. 16,899.35. The main contention put forward by the applicant is that he had kept the money in his nearby house and the Inspector of Posts had not permitted him to bring the money back. Counsel for the respondents would contend that even though the money can be kept in a safe place, the applicant was expected to bring the cash belonging to the government when the Post Office is opened next day and there is no merit in the contention put forward by the applicant in this case. This is only an after thought and fabricated one for escaping from the charges. On a perusal of the pleadings and records, it seems that there is no merit in the contention put forward in this case. The applicant is not expected to keep the public money in his house when the Post Office is functioning. The inspection has taken place at 10.45 a.m. and at that time the money was not brought back which

clearly shows that the arguments put forward by the applicant has no merit in this case. The another contention put forward by the counsel for the applicant is that the postal receipt for the payment of money belonging to one Sivalingam was not a fabricated one as alleged by the respondents. Eventhough the applicant has sought the permission of the EO for sending the receipt for Forensic examination, it was not permitted. So, this has prejudiced his defence. It is to be noted that the enquiry contemplated is a departmental enquiry where only preponderance of probability is sufficient for taking a decision by the DA. Unlike criminal cases, there is no need of conclusive proof. It is the case of the respondents that the MO receipt was fabricated and the amount of MO misappropriated was found proved by the EO and there is no reason to disbelieve this version. The EO has properly conducted the enquiry and has given all facility for conducting the defence of the applicant and there is no violation of procedure brought out to show that the enquiry was vitiated. There is absolutely nothing available in the records to show that the respondents had acted maliciously or vindictively against the applicant. We do not find any reason to interfere with the finding of the DA. It has come out from the pleadings of the respondents that the applicant was involved in a similar allegation and the enquiries were conducted against him by the respondents. So, the averment that the applicant was having unblemished service has no basis in the facts and circumstances of the case. Regarding the quantum of punishment also, it is for the respondents to decide what penalty has to be given to the applicant for the offences committed by him. The

Tribunal is not expected to interfere with the quantum of punishment unless it is shockingly disproportionate. In this case the charges levelled against the applicant is misappropriation and this is a very serious offence. In the circumstances, we are not inclined to interfere with the order passed by the DA in this case.

6. We accordingly dismiss the OA. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

02.08.2019

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Annexures referred to by the applicant in OA No.310/01139/2014:

Annexure A1: Articles of charges issued by the 3rd respondent dated 28.2.2013.

Annexure A2: Written Statement of Defense given by the applicant dated 09.3.2013.

Annexure A3: Corrigendum issued by the 3rd respondent dated 04.4.2013.

Annexure A4: Request to Forensic Dept. for conforming the sign letter given by the applicant dated 14.6.2013.

Annexure A5: Reply letter given by the 3rd respondent for conforming the sign dated 19.6.2013.

Annexure A6: Enquiry order issued by the 3rd respondent dated 18.11.2013.

Annexure A7: Written Statement of Defence brief for enquiry dated 28.11.2013.

Annexure A8: Charges framed against the applicant dated 13.12.2013.

Annexure A9: Removed from service order passed by 3rd respondent dated 30.12.2013.

Annexure A10: Appeal against the order of Supdt. Of Post to the 2nd & 3rd respondents dated 09.1.2014.

Annexures with reply statement:

Annexure R1: Memo No.F1/VI/04/2012-13 dated 28.2.2013 of the Supdt. Of Post offices, Karur Division, Karur 639 001 dated 28.2.2013.

Annexure R2: Written statement of defence submitted by Shri A.Sankar, Ex GDS BPM, Thavalaveeranpatti BO a/w Tharagampatti SO dated 09.3.2013.

Annexure R3: Memo No.F1/VI/04/2012-13 dated 04.4.2013 of Supdt. Of Post offices, Karur division, Karur 639 001 (Corrigendum to Charge Sheet) dated 04.4.2013.

Annexure R4: IO report of Shri R.Sabarirajan, Inspector Posts, Kulittalai Sub division, Kulittalai 639 104. dated 13.12.2013.

Annexure R5: Memo No.F1/VI/04/2012-13 dated 13.12.2013 of Supdt. Of Post offices, Karur division, Karur 639 001 forwarding the report of IO to the charged GDS for making representation dated 13.12.2013.

Annexure R6: Representation of Shri A.Sankar, Ex GDS BPM, Thavalaveeranpatti BO a/w Tharagampatti SO against the report of the Inquiry officer dated 24.12.2013.
Annexure R7: Memo No.F1/VI/04/2012-13 dated 30.12.2013 of the Supdt. Of Post offices, Karur division, Karur 639 001 dated 30.12.2013.

Annexure R7: Appeal of Shri A.Sankar, Ex GDS BPM, Thavalaveeranpatti BO a/w Tharagampatti SO dated 09.1.2014.

Annexure R8: RO memo No.STC/3-5/2014 dated 13.3.2014 of the Director of Postal Services, Central Region, TN, Tiruchirappalli 620 001 dated 13.3.2014.