

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.1261 of 2012

Date of Order :06.06.2019.

Between :

L.N.P.Murali, s/o Adinarayana Rao,
Aged about 49 yrs, Ex.Postal Assistant
(Compulsorily retired), r/o D.No.32-40-58/2,
Care of Sri Gopiah Garu, Yanam Wari Veedhi,
Machavaram, Vijayawada Post-4, Vijayawada. ...Applicant

And

1. The Superintendent of Post Offices,
Machilipatnam Division, Machilipatnam.
2. The Director of Postal Services,
O/o Postmaster General, Vijayawada Region,
Vijayawada.
3. The Chief Post Master General, A.P.Circle,
Hyderabad.
4. Union of India, rep., by the Director General,
Dept. Of Posts, New Delhi. ... Respondents

Counsel for the Applicants ... Mr.K.Venkateswara Rao

Counsel for the Respondents ...Mrs.K.Rajitha, Sr.CGSC

CORAM:

**THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)**

ORAL ORDER

(As per Hon'ble Mr.Justice L.Narasimha Reddy, Chairman)

The applicant is working as Postal Assistant at Avanigadda Head Post Office. A charge memo was issued to him on 22.08.2002 alleging certain acts and omissions, and of misconduct, on his part. He submitted an explanation denying the same. Not satisfied with the explanation, the Disciplinary Authority appointed an Inquiry Officer. The Inquiry Officer submitted its report dated 15.11.2002 holding the charges as proved. Taking the same into account, the Disciplinary Authority passed an order dated 30.01.2003 imposing the punishment of compulsory retirement from service, on the applicant.

2. The criminal proceedings were also initiated against the applicant on the basis of the acts and omissions, mentioned in the disciplinary proceedings. The Criminal Case No.334/2006 ended in acquittal, vide judgment of the Additional Judicial 1st Class Magistrate, Avanigadda, dated 23.09.2010. In view of this development, the applicant submitted a representation dated 27.12.2003, with a request to review the punishment imposed on him. The concerned authority rejected the representation through an order dated 05.07.2004. This OA is filed challenging the order of the punishment of compulsory retirement, as well as the order dated 12.07.2011.

3. The applicant contends that the acts and omissions attributed to him were trivial in nature and they were mostly, about the delay in remitting the amounts collected in the course of transactions. He also contends that the amount has since been remitted, and a lenient view ought to have been taken. The applicant further contends that once he was acquitted of the same charges, imposition of punishment on the same set of charges becomes untenable in law.

4. The respondents have filed a reply statement opposing the OA. It is stated that the applicant has resorted to acts of misconduct and all the charges were held proved on the basis of cogent evidence and that the punishment imposed cannot be said to be disproportionate. It is also stated that the acquittal of the applicant in the Criminal Case was on technical grounds.

5. We heard Mr.K.Venkateswara Rao, learned counsel for the Applicant and Mrs.K.Rajitha, learned Senior Standing Counsel for the Respondents.

6. The charges framed against the applicant through memo dated 30.01.2003 read as under:

"Article-I"

That Sri L.N.P.Murali, while working as PA, K.P.Centre SO during the period from 28.01.99 to 01.04.2002 had accepted an amount of Rs.9950/- + default Fee Rs.82/- = Total Rs.10032/- (Rs.Ten Thousand thirty two only) towards amount of deposits into 21 RD accounts on 26.3.2002 presented by M.Vijaya, MPKBY Agent (CA.No.095/7291/KST/97), K.P.Centre SO along with pay-in-slip for the said amount and Agents list in six copies and RD pass books, but failed to incorporate into PO accounts.

By above act, the said Sri L.N.P.Murali has failed to follow Rule 4 (1) and 103 of FHB Vol.I and thereby failed to maintain devotion to duty, absolute integrity and contravened the provisions of Rule 3(1) (i), (ii), (iii) of CCS Conduct Rules, 1964.

Article-II

That Sri L.N.P.Murali, while working as PA, K.P.Centre SO during the period from 28.01.99 to 01.04.2002 had accepted an amount of Rs.6825/- + default Fee Rs.17/- = Total Rs.6842/- (Rs.Six thousand eight hundred forty two only) towards amount of deposits into 49 RD accounts on 23.3.2002 presented by Bh.Seeta Jagadish MPKBY Agent (CA.No.3450/KST/93), K.P.Centre SO along with pay-in-slip for the said amount and Agents list in six copies and RD pass books, but failed to incorporate into PO accounts.

By above act, the said Sri L.N.P.Murali has failed to follow Rule 4 (1) and 103 of FHB Vol.I and thereby failed to maintain devotion to duty, absolute integrity and contravened the provisions of Rule 3(1) (i), (ii), (iii) of CCS Conduct Rules, 1964.

Article-III

That Sri L.N.P.Murali, while working as PA, K.P.Centre SO during the period from 28.01.99 to 01.04.2002 had accepted an amount of Rs.5150/- + default Fee Rs.28.50/- = Total Rs.5178.50/- (Rs.Five Thousand one hundred seventy eighty & 50 paise only) towards amount of deposits into 31 RD accounts on 26.3.2002 presented by Bh.Seeta Jagadish, MPKBY Agent (CA.No.3450/KST/93), K.P.Centre SO along with pay-in-slip for the said amount and Agents list in six copies and RD pass books, but failed to incorporate into PO accounts.

By above act, the said Sri L.N.P.Murali has failed to follow Rule 4 (1) and 103 of FHB Vol.I and thereby failed to maintain devotion to duty, absolute integrity and contravened the provisions of Rule 3(1) (i), (ii), (iii) of CCS Conduct Rules, 1964.

Article-IV

That Sri L.N.P.Murali, while working as PA, K.P.Centre SO during the period from 28.01.99 to 01.04.2002 had accepted an amount of Rs.9900/- + default Fee Rs.2/- = Total Rs.9902/- (Rs.Nine thousand nine hundred two only) towards amount of deposits into 25 RD accounts on 22.3.2002 presented by M.Vijaya, MPKBY Agent (CA.No.095/7291/KST/97), K.P.Centre SO along with pay-in-slip for the said amount and Agents list in six copies and RD pass books, but incorporated the said amount into PO accounts on 26.3.2002.

By above act, the said Sri L.N.P.Murali has failed to follow Rule 4 (1) and 103 of FHB Vol.I and thereby failed to maintain devotion to duty and absolute integrity and contravened the provisions of Rule 3(1) (i), (ii), (iii) of CCS Conduct Rules, 1964.

Article-V

That Sri L.N.P.Murali, while working as PA, K.P.Centre SO during the period from 28.01.99 to 01.04.2002 had accepted an amount of Rs.9980/- (Rs.Nine thousand nine hundred eighty only) towards amount of deposits into 31 RD accounts on 21.3.2002 presented by M.Vijaya, MPKBY Agent (CA.No.095/7291/KST/97), K.P.Centre SO along with pay-in-slip for the said amount and Agents list in six copies and RD pass books, but incorporated into PO accounts 22.03.2002.

By above act, the said Sri L.N.P.Murali has failed to follow Rule 4 (1) and 103 of FHB Vol.I and thereby failed to maintain devotion to duty, and absolute integrity and contravened the provisions of Rule 3(1) (i), (ii), (iii) of CCS Conduct Rules, 1964.

Article-VI

Sri L.N.P.Murali, while working as SPM, Movva SO during the period from 01.06.96 to 28.01.99 temporarily misappropriated the public money (SB/RD/Deposits/Withdrawals) to the tune of Rs.36,707.90 for which he was awarded with punishment of Reduction of the pay by four stages from Rs.4700/- to 4300/- for a period of three years with effect from 1.4.2001 with cumulative effect vide SPOs, MPM Memo No.F6-1/98-99, dated 23.03.2001.”

7. From a perusal of the charges, it becomes clear that the applicant collected the amounts from the concerned customers, but failed to remit the same. It is a clear case of misappropriation. The mere fact that the applicant remitted the amount at a later stage does not make any

difference. On the other hand, it amounts to the admission of the charges, by the applicant. In the course of the inquiry, oral and documentary evidence was adduced and the Inquiry Officer submitted its report holding the charges, as proved. The Disciplinary Authority took the same into account and imposed the punishment. It is a matter of record that on an earlier occasion also, the applicant was held guilty of misappropriation of public money and the punishment of reduction of the pay by four stages from Rs.4700/- to Rs.4300/- was imposed, vide order dated 23.03.2001. Even that did not have any impact on the applicant as regards his conduct. This deserves to be treated as an aggravating factor. The punishment of compulsory retirement cannot be said to be harsh inasmuch as it enables the applicant to draw the retiral benefits.

8. It is true that the applicant was acquitted in the Criminal Case. However, that was on technical grounds. It is fairly well settled that the parameters for adjudication of the Criminal Case on one hand and the determination of the disciplinary proceedings on the other hand, are totally different. The Disciplinary Authority has correctly analysed the matter and we do not find any basis to interfere with the order of punishment and that of refusal to review the punishment, in the light of acquittal of the applicant.

9. The OA is, therefore, dismissed. There shall be no order as to costs.

Sd/-

Sd/-

**(NAINI JAYASEELAN)
MEMBER (ADMN.)**

**(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN**

Dated: this the 06th day of June, 2019

Dictated in the Open Court

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