

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORGINAL APPLICATION NO.200/00826/2011

Jabalpur, this Thursday, the 26th day of September, 2019

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

B.N.Patel, S/o Shri G.P.Patel, Aged about 53 years, R/o Village-Kakra, P.O.-Karehi, Tehsil-Amarpatan, Satna (MP)-431502 - **APPLICANT**

(By Advocate –Shri Vijay Tripathi)

Versus

1. Union of India through its Secretary, Ministry of Communication & IT Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001
2. Chief Post Master General, M.P.Circle, Hoshangabad Road, Bhopal-462012 (M.P.)
3. Director Postal Services (HQ) O/o Chief Post Master General, M.P. Circle, Hoshangabad Road, Bhopal-462012 (M.P.)
4. Senior Superintendent of Post Offices, Rewa Division, Rewa-486001 (M.P.)

-RESPONDENTS

(By Advocate – Shri S.K.Mishra)

(Date of reserving the order 16.01.2019)

O R D E R

By Navin Tandon, AM.-

The applicant is aggrieved by imposition of minor penalty of withholding of increment for a period of 1 & ½ years without cumulative effect.

2. The brief facts of the case as submitted by the applicant are as under:-

2.1 He was appointed as Lower Division Clerk in Saving Bank Control Organization (for brevity 'SBCO') Branch on 07.03.1980 and was promoted as Upper Division Clerk in the year 1983. On abolition of the post of Lower Division Clerk and Upper Division Clerk, he was designated as Postal Assistant from 01.08.1992.

2.2 He worked as Postal Assistant SBCO Head Post Office, Katni from 14.05.2001 to 05.07.2006. Thereafter, he was transferred to Jabalpur on 08.07.2006 and further transferred to Rewa on 22.06.2010.

2.3 He was issued a minor penalty charge sheet on 06.09.2010 (Annexure A-1) alleging that while posted at Katni from 01.01.2004 to 04.07.2006 he failed to carry out his prescribed duty of voucher checking resulting into commitment of irregularities of non-tallying the specimen signature of account holder of SB-7 and permitting withdrawal without doing so by SPM.

2.4 He denied the allegations in toto vide his reply dated 21.09.2010 (Annexure A-4) by stating that he was never assigned the duty to check RD vouchers nor he has been instructed to perform duty to check the RD vouchers during the relevant period. For the same set of allegations a similar charge sheet was issued against one Shri S.K.Soni on 06.09.2010 (Annexure A-5). Therefore, in all fairness a departmental enquiry should

have been conducted under the provisions of Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter referred to as '**the CCS(CCA)Rules**'), as mandated under Rule 16(1)(b). However, the disciplinary authority vide impugned order dated 06.09.2010 (Annexure A-1) imposed a penalty of withholding of increment for a period of 1 & ½ years without cumulative effect.

2.5 He submitted an appeal on 25.01.2011 (Annexure A-8) against the above punishment. However, when his appeal was not decided, he approached this Tribunal by filing another Original Application No.530/2011, which was disposed of vide order dated 07.07.2011 (Annexure A-10) with a direction to the appellate authority to pass a speaking order on the grievances of the applicant.

2.6 The appellate authority vide order dated 17.08.2011 (Annexure A-3) has rejected the appeal of the applicant without application of mind and the facts and grounds raised by the applicant in his appeal have been totally ignored.

2.7 In support of his claim the applicant has placed reliance on the judgment of Hon'ble Supreme Court in **O.K.Bhardwaj Vs. Union of India and others** (2001) 9 SCC 180, as well as of Bangalore Bench of this Tribunal in **Shrishail Bhajantri Vs. The Principal, Kendriya Vidyalaya No.2, Hubli and others**, 2003(2) ATJ 388 to contend that

since no detailed & oral inquiry was held, the charges could not have been established.

3. The applicant has prayed for the following reliefs in this Original Application:-

*“8(i) Summon the entire relevant record from the respondents for its kind perusal;
(ii) Set aside the charge-sheet dated 6.9.2010 Annexure A/1, punishment order dated 29.12.2010 Annexure A/2 and appellate order dt.17.08.2011 Annexure A/3 and with all consequential benefits;
(iii) Any other order/orders direction/directions may also be passed.
(iv) Award cost of the litigation to the applicant”.*

4. The respondents in their reply have submitted as under:-

4.1 During his incumbency on the post of Postal Assistant, SBCO Katni it was the duty of the applicant to maintain SB-85, SB-85(a) Consolidation of journal of deposits and withdrawals and statistical register SB-89 as prescribed vide rule 57 of SBCO Manual under recurring deposit Central procedure. It was also his duty to exercise all the prescribed checks in respect of transactions vouchers and transfer etc. as prescribed vide rule of the said manual.

4.2 During the period of his incumbency, 31 RD withdrawals were made at Katni New Yard S.O. The applicant, while working as Postal Assistant of SBCO, failed to carry out his prescribed duty of voucher checking resulting into commitment of irregularity of non-tallying of

specimen signature of account holder on SB-7 and permitting withdrawal without doing so by the SPM.

4.3 Since Shri S.K.Soni, Postal Assistant, SBCO Katni had committed the same misconduct, hence the same punishment was also awarded to him.

4.4 Since the charge-sheet of minor penalty proceeding was issued under Rule 16 of the CCS (CCA) Rules after taking into consideration the gravity of the misconduct, it was not felt necessary to conduct open enquiry. The applicant did not desire to conduct open enquiry and the order of punishment was passed after considering his reply.

4.5 As per this directions of this Tribunal, the appellate authority had already passed a speaking order dated 27.7/1.8.2011 and appeal disposed of on 17.08.2011 (Annexure A-3). The punishment awarded is commensurate with the gravity of misconduct. Hence, the Original Application is liable to be dismissed.

5. Heard the learned counsel of parties and carefully perused the pleadings of the respective parties and the documents annexed therewith.

6. The learned counsel for the applicant vehemently argued that no enquiry has been conducted in the matter and, therefore, the whole process is vitiated. He also submitted that the charge sheet is vague and he was never assigned the duty for which he has been charge-sheeted. He

places reliance on the decisions in the matters of **O.K.Bhardwaj** (supra) and **Shrishail Bhajantri** (supra).

7. Learned counsel for the respondents argued that no enquiry is required in minor penalty cases. Based on representations/ comments/ documents, the matter has been decided.

7.1 He also submitted that in his representation dated 21.09.2010 (Annexure A-4) and in his appeal dated 24.01.2011 (Annexure A-8) no request has been made by the applicant for conducting any enquiry.

7.2 He places reliance on the order of this Tribunal dated 01.11.2017 in Original Application No.200/00353/2015 (**Goutam Chand Jain Vs. Union of India and others**).

F I N D I N G S

8. Rule 16 of the CCS(CCA)Rules, does not provide for conducting enquiry except in cases covering under Rule 16(1)(A) like adversely affecting pension payable or to withhold increments of pay for a period extending three years etc. In other cases the enquiry is to be held only if the disciplinary authority is of the opinion that such an enquiry is necessary.

9. In the present case the applicant has not asked for any enquiry in his representation dated 21.09.2010 (Annexure A-4). This representation has been duly considered by the disciplinary authority while communicating the imposition of penalty on 29.12.2010 (Annexure A-2).

10. The applicant has submitted his appeal dated 24.01.2011 (Annexure A-8). In this appeal also no enquiry has been asked for. The appellate authority in his order dated 17.08.2011 (Annexure A-3) has specifically responded to Para 3.1, 3.2, 3.3 and 3.4 of the appeal, wherein the grounds for appeal have been listed. After considering the grounds, he upheld the penalty of withholding of increment for 1½ years.

11. The Hon'ble Supreme Court in the matters of **O.K.Bhardwaj** (supra) has held that if the charges are factual and if they are denied by the delinquent employee an enquiry should also be called for.

11.1 In the present case, the delinquent employee has not called for any enquiry to be conducted.

12. In the present case we find that the applicant was given full opportunity to defend his case when the charge sheet was given and he has availed of the same by giving his representation. This representation was considered by the disciplinary authority and the penalty of withholding of increments for 1 ½ years was imposed. The applicant further availed the opportunity of submitting his appeal which has been

considered by the appellate authority and upheld the punishment imposed.

13. We are of the considered opinion that the applicant has been accorded all the opportunities to defend his case and the procedure of imposition of penalty as prescribed has been followed. Therefore, we do not find any illegality or irregularity in the impugned order passed by the respondent-authorities.

14. Accordingly, the Original Application is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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