

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

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Original Application No. 290/00269/2017

RESERVED ON : 14.08.2019
PRONOUNCED ON : 28.08.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)

Karampal Singh s/o Shri Dharam Singh, aged about 26 years, b/c SC R/o New Colony, Near Subhash Park Dungerpur (Working as Postman at Dungerpur City Post Office under Postal Department).

...Applicant

(By Advocate: Shri S.P.Singh)

Versus

1. Union of India, through the Secretary, Government of India, M/o Communication Department of Post, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur
3. The Director of Postal Services, Southern Region, Ajmer.
4. Superintendent of Post Offices, Dungerpur Division, Dungerpur.

...Respondents

(By Advocate: Shri K.S.Yadav)

ORDER

The applicant has filed the present OA praying for the following reliefs:-

- (a) That the impugned order Memo No.C.R./10-1/Disc/Karampal Singh/16-17 dated 23.11.2016 may kindly be declared illegal unjust and

improper and deserves to be quashed and set aside.

- (b) That the impugned order Memo No. Viz/SR/44-06(16)/17 dated 15.2.2017 may kindly be declared illegal unjust and improper and deserves to be quashed and set aside.
- (c) That any other direction, or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (d) That the costs of this application may awarded to the applicant.

2. It is the case of the applicant that he was appointed as Postman on 11.6.2016 and while he was posted at Dungarpur City Post Office, he was served a chargesheet on 16.08.2016 under Rule 16 of the CCS (CCA) Rules, 1965. It was alleged in the chargesheet that a passport in favour of Shri Kausar Ali was not delivered to the exact person and it was delivered to Shri Abdul Gani. The second charge was that the applicant demanded Rs. 100/- through Shri Abdul Gani for delivery of the passport. The applicant stated that he was newly appointed and the passport was to be delivered on the same day and as Shri Kausar Ali was not traceable and on confirming from the previous postman he delivered it to Shri Adbul Gani who was relative of Shri Kausar Ali, and who assured to hand over the passport to Shri Kausar Ali. The applicant did not demand Rs. 100/-

from Shri Kausar Ali because the passport was not delivered to him. The said amount was demanded by Shri Abdul Gani, who received the passport. The respondents admitted that the applicant did not demand the money but it was received through Abdul Gani, which is evident from the chargesheet. The Disciplinary Authority without taking into consideration the real facts and circumstance, awarded a punishment of withholding of increment for three years without cumulative effect. The Disciplinary Authority did not consider that the applicant is newly appointed and delivered the passport to known person of Shri Kausar Ali, who was his relative as confirmed by the competent authority during the investigation. The Disciplinary Authority admitted that the applicant did not demand money from Shri Kausar Ali but the amount was demanded by Shri Abdul Gani, who received the passport for giving it to the real person, Shri Kausar Ali. The applicant further averred that the speed post article was delivered on 14.7.2016 and intention of the applicant was to deliver the speed post item on the same date. It is also clear that neither the chargesheet nor the punishment order reveals that the applicant demanded any amount from Shri Kausar Ali. It is also to be noted that the respondents have also admitted that the Speed Post was

delivered to Shri Abdul Gani who did not pay any amount to the applicant. Therefore, if the amount is not received by the applicant then the punishment order is clearly illegal and therefore, holding of increments for three years is very harsh. The applicant also filed appeal against the punishment order, but the Appellate Authority affirmed the order of the Disciplinary Authority. Therefore, aggrieved by the action of the respondents, the applicant has filed the present OA praying for quashing the order dated 23.11.2016 (Ann.A/1) as well as the order dated 15.2.2017 (Ann.A/2).

3. The respondents have filed reply stating that on receipt of the complaint in the matter pertaining to handing over the parcel/passport to Shri Abdul Gani instead of Shri Kausar Ali, an inquiry was conducted through IPO (PG), Dungarpur and in the inquiry it was revealed that a Speed Post article No. PP876071370IN was received from Passport Office, Jaipur at Dungarpur HO on 14.7.2016 for delivery in the name of Shri Kausar Ali Bohra, but the same was not delivered to him and it was wrongly delivered to the person named Shri Abdul Gani on 14.7.2016 and an amount of Rs. 100 was demanded through Shri Abdul Gani in lieu of delivery of the passport. On knowing about the complaint,

the applicant collected the article back from Shri Abdul Gani and delivered it to Shri Kausar Ali Bohra on 20.7.2016. As per para 2(a) of BD&M Directorate Communication dated 01.06.2010 because the envelopes used by the Ministry of External Affairs for dispatch of the passport through speed post superscripted as "Passport to be delivered to the addressee only" if not to be redirected and if not delivered, please return to the sender" (Ann.R/3). As per clarification and guidelines vide communication dated 11.4.2012 (Ann.R/4) in cases of passport being delivered by speed post the same must be delivered to addressee or its authorised representative only. Therefore, the applicant was required to deliver the passport to its recipient otherwise he could return it if the recipient is not traceable. As per Rule 127 of Postal Manual Vol.3 Postmen are responsible for the correct delivery of all articles and correct payment of all money orders entrusted to them. In all the cases of doubt, the Postman must satisfy himself as to the addressee's or payee's identify by making proper enquiries before delivering the article or paying the money orders. Therefore, it was the duty of the applicant to deliver the passport to its recipient, otherwise he could return it if the recipient is not traceable (Ann.R/5). As far as the question

of illegal demand of Rs. 100/- from Shri Kausar Ali Bohra is concerned, the said fact was admitted by the applicant in his statement dated 27.7.2017 during the course of preliminary inquiry (Ann.R/6 and R/7). If Rs. 100/- was demanded by Shri Abdul Gani from Shri Kausar Ali Bohra in lieu of delivery of his passport, then the complainant had no occasion to mention the name of applicant in his complaint dated 20.07.2016. Thus, keeping in view the overall circumstance and future of the applicant, the Disciplinary Authority had correctly passed the order and the same does not deserve to be quashed or set-aside.

7. The applicant has filed rejoinder to the reply reiterating the averments made in the OA and thereafter the respondents have filed additional reply.

8. Heard Shri S.P.Singh, counsel for the applicant and Shri K.S.Yadav, counsel for the respondents.

9. During the course of arguments, the learned counsel for the applicant contended that the applicant was appointed as Postman on 11.6.2016, and at Dungarpur City Post Office, he was working since one month only. The charge memo issued on 16.8.2016 is two fold that the applicant did not deliver the passport to the real person i.e.

Shri Kausar Ali Bohra, but instead he handed over the same to one of his relative Shri Abdul Gani. The other charge levelled against the applicant was that the applicant demanded an amount of Rs. 100/- from Shri Abdul Gani for the passport. It is the case of the applicant that since he was new to the area and delivery was required to be done on the same day, he after confirming from the previous Postman and nearby persons that Shri Abdul Gani is relative of Shri Kausar Ali Bohra, delivered the Speed Post article to Shri Abdul Gani. So far as demand of money is concerned, when the Speed Post was not delivered to Shri Kausar Ali, it is obvious that the applicant did not make any demand of money from Shri Kausar Ali. His statement dated 22.7.2016 is clear that a demand of Rs. 100/- was made by Shri Abdul Gani but the applicant has not received any actual amount of Rs. 100/- from Shri Abdul Gani. It is also clear that the applicant has not accepted any amount from Shri Kausar Ali. During the investigation conducted, it was not proved that any amount had been demanded from Shri Kausar Ali. Therefore, it is unfair on the part of the respondents to punish the applicant by awarding punishment of withholding of increments for three years without cumulative effect. The passport was to be delivered immediately to the

recipient and since the recipient was not traceable, he on inquiry and after confirming that Shri Abdul Gani is relative of Shri Kausar Ali, delivered the passport to Shri Abdul Gani. So far demand of money is concerned, the applicant contended that the applicant has not made any demand from Shri Kausar Ali in lieu of delivery of passport. Therefore, the punishment order is very harsh and the same deserves to be quashed and set aside.

10. On the other hand, the learned counsel for the respondents reiterated the submissions and stated that the passport was required to be delivered to proper person i.e. addressee and also at the appropriate place, though the applicant was new for the particular area, but he was appointed in the year 2016 which shows that he should have been aware about the rules of delivery of post/parcel. The applicant had not delivered the passport to the addressee and Shri Abdul Gani was not an authorised representative of Shri Kausar Ali Bohra. Therefore, the applicant had violated the rules in delivering the passport. The applicant demanded Rs. 100/- from Shri Abdul Gani and the said fact was agreed as per the statement of the applicant dated 27.7.2016, the punishment of withholding

of increment for 3 years without cumulative effect is just and proper.

11. Considered the rival contentions of the parties.

12. In the inquiry, the applicant pleaded guilty of not committing the wrong delivery of Speed Post item in future and that he would take utmost care in delivering the post and articles. The reasons behind wrong delivery of the item may be that he was new to the area and on inquiry about the real recipient who was not traceable, he stood wrongly convinced and delivered the item to Shri Abdul Gani. On knowing about the non-delivery of the said item, he immediately delivered the same to the real recipient. Instead of pleading guilty by the applicant, the Disciplinary Authority awarded punishment to the applicant of withholding increments for three years without cumulative effect from 1.7.2017. Thereafter the applicant filed appeal dated 23.11.2016 but the said appeal was rejected by the appellate authority vide order dated 15.2.2017. The Appellate Authority had taken a view that the said punishment is reasonable and that the appellant in future would be very careful and would do his work sincerely and

therefore he did not wish to interfere with the order passed by the Disciplinary Authority.

13. It is clear that the applicant was new to the area as he was just appointed on 11.6.2016 and the speed post article was required to be delivered on 14.7.2016. It was only within a month a chargesheet was issued to the applicant for not delivering the article to the correct addressee. It is clear that the parcel was delivered by the applicant on the same date to one Shri Abdul Gani who was stated to be relative of Shri Kausar Ali. It is only on complaint of Shri Kausar Ali, the matter of non-delivery came to the light and that the applicant had delivered the item on the same day. Thereafter, the applicant was chargesheeted under Rule 16 of CCS (CCA) Rules, 1965 and punishment of withholding of increment for three years without cumulative effect was awarded and the said punishment was affirmed by the Appellate Authority.

14. From the pleadings of the parties, it is not established that the applicant demanded and received any amount in lieu of delivery of the Speed Post article from Shri Kausar Ali Bohra, who was the real recipient of the item. It appears that the punishment awarded to the applicant for the

offence is disproportionate to the gravity of the charges levelled against the applicant and it is very harsh. The applicant was new to the area and the Speed Post article was to be delivered on the same day. Due to lack of knowledge of the area, he would have been wrongly convinced on the assurance given by Shri Abdul Gani and the previous Postman of the area. It is not the case of the respondents that they have previously noticed such kind of incidents on the part of the applicant. In these circumstances, the respondents should have taken a lenient view while imposing the penalty.

15. Therefore, I am of the view that some lesser penalty is required to be imposed on the applicant. Accordingly, the impugned order dated 23.11.2016 (Ann.A/1) and appellate order dated 15.2.2017 (Ann.A/2) are quashed. The matter is remitted back to the Disciplinary Authority to consider and pass appropriate lesser punishment keeping in mind the observations made above.

16. The OA is accordingly disposed of in above terms with no order as to costs.

(HINA P.SHAH)
JUDL. MEMBER

R/