

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00024/2017

Date of Order: This, the 3rd Day of September, 2019.

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

Altafuddin Ahmed (LSG/B)
O/o HRO (Mails),
Guwahati- 781001,
District- Kamrup (M), Assam

...Applicant

By Advocate: Sri Z.Khalid

-Versus-

1. Union of India,
Represented by the Secretary
To the Govt. of India, Department
Of Posts, India, New Delhi- 110001.
2. The Chief Post Master General,
Assam Circle, Panbazar, Guwahati-1,
District Kamrup, Assam, Pin- 781001.
3. The Director of Postal Services,
O/O- Chief P.M.G. Meghdoot Bhaban,
Guwahati, Pin – 781001.
4. The Senior Superintendent of RMS,
Guwahati Division, Guwahati-1,
District- Kamrup, Assam, Pin- 781001.

... Respondents

By Advocate: Sri S.K.Ghosh, Addl. C.G.S.C.

ORDER (ORAL)

MANJULA DAS, MEMBER (J):

By this OA filed under Section 19 of the Administrative Tribunals, Act, 1985, the applicant prays for setting aside of the punishment order dated 21.10.2014 and to direct the respondents to return the money realized and seized from the appellant.

2. Sri Z Khalid, learned counsel for the applicant submitted that while the applicant was working as SA (TBOP) under SRO Rangia, an FIR was lodged before the Raniga Police Station stating that the iron chef of the office was found open and a cash of Rs.2,00,483/- was stolen. Learned counsel mentioned that key of the iron chef was always with the HRO Sri Nagendra Nath Goswami, Sri Hitesear Talukdar and then Cashier of the HRO office was the joint custodian of the cash and key of iron chef. On the basis of the said FIR, the police arrested the applicant in G R Case no.1/2006 and submitted charge sheet u/s 457/380 IPC against the applicant. The police

also seized Rs.1,50,000/- from the residence of the applicant which according to the learned counsel, applicant had collected for construction of his residential house. Ultimately, applicant was acquitted from the charges by the Sub Divisional Judicial Magistrate vide judgment dated 08.09.2009. According to the learned counsel, despite the acquittal from the charges in the criminal case, the respondents have proceeded against the applicant departmentally under Rule 14 of the CCS Rules and after holding enquiry vide order dated 03.12.2013 imposed the punishment of recovery of 2 lacks together with partial interest from his pay and allowances in 25 installments @ Rs.8000 per month w.e.f. .01.01.2014. Vide the said order, applicant's pay was reduced to a lower stage I the time scale of pay by (two) sages for 2 (two) years w.e.f. 01.01.2014 with the further order that applicant will not earn increments during the period of such reduction and on expiry of the period, the reduction will have effect on postponing his future increment of pay.

3. Learned counsel submitted that applicant has preferred appeal against the punishment order and the

appellate authority had considered his appeal and modified the punishment as under vide order dated 21.10.2014:-

“2. That no where either in the charge sheet or in the FIR, it was mentioned that stealing of cash was done by the appellant on that day. But the IO in a very unjustified way concluded that the theft was committed by the appellant without any doubt. The conclusion of the IO without any documentary evidence is against existing rules. The honourable court also acquitted the appellant.

3. That considering the above facts, the appellant should be exonerated from the charges so that he can save his family from great financial hardship.

After consideration of all facts and documents pertinent to the case, I am of the opinion that out of the Department loss of Rs.2,00,000/-, Rs.1,50,000/- is in deposit with the court of SDM, Rangia and as such punishment order needs modification.

Therefore, I, SRI RIJU GANGULY, Director of Postal Services (HQ), Assam Circle, Guwahati taking all aspects of the case into consideration order that the punishment awarded to the said Md Altafuddin Ahmed be modified to recovery of Rs.50000/- (Rupees fifty thousand) only from his pay in 10 (ten) equal instalments @ Rs. 5000/-.”

4. Sri S.K.Ghosh, learned Addl. C.G.S.C. appearing for the respondents submitted that while searching the house of the applicant, the police had recovered Rs.1,50,000/-. Learned

counsel further submitted that though the Sub Divisional Judicial Magistrate, Rangia had acquitted the applicant vide order dated 08.09.2009 in G R Case No.01/2007, against the said order the respondents have filed Criminal Revision Petition No.23 of 2010 before the Hon'ble High Court and the matter is still pending. Learned counsel further submitted that the enquiry officer in his enquiry report held the charges as proved. According to the learned counsel, the appellate authority had already modified the penalty and reduced the recovery from Rs.2,00,000/- to Rs.50,000/-.

5. Sri Z Khalid, learned counsel for the applicant rebutting the contention made on behalf of the respondents submitted that just four days ahead of the theft case on 26.12.2006, the applicant received Rs.1,27,000/- from the department and house building advance and he collected Rs.30,000/- from his savings and was preparing to construct his house but on 01.01.2007, the police arrested him in connection with GRP No.01/07. The police searched his house, forcibly and knowingly took Rs.1,50,000/- and showed the same as recovery of stolen amount only harass the applicant. The applicant also

annexed the sanction memo in support of his contention. Learned counsel further submitted that applicant has been implicated for working in a holiday unauthorizedly whereas the inspection report clearly showed that there is provision to work on holiday if 2 days holiday falls at a time. According to the learned counsel, in the departmental proceeding there was no evidence on record to implicate the theft of cash of the office has not been proved even remotely and nowhere in the FIR or in the charge sheet it was mentioned that theft was done by the applicant. The applicant has been implicated on suspicion.

6. We have heard the learned counsel for the parties, perused the pleadings and the documents placed therein.

7. The main contention of the applicant that the appellate authority in his appellate order held as under:-

"...nowhere either in the charge sheet and in the FIR it was mentioned that stealing of cash was done by the appellant on that day and the I.O in a very unjustified way concluded that the theft was done by the appellate without any doubt. The Hon'ble Court also acquitted the applicant. Considering the above facts the appellant should be exonerated from the charges as he can save his family from great financial hardship."

We have gone through the appellate order and found that the quoted portion was not the opinion of the appellate authority. The appellate authority had only referred the contention raised in the appeal of the applicant.

8. Applicant contended that since he has been acquitted in the criminal case, he should also be exonerated from the charges in the departmental enquiry which has been strongly rebutted by the respondents in their reply by relying various decisions of the Apex Court. It is trite in law that criminal and departmental proceedings are entirely different proceedings. Acquittal in criminal proceedings does not debar the department to proceed with departmentally. It is neither the case of the applicant that reasonable opportunity was not afforded to the applicant nor any procedural violation in the departmental proceeding was canvassed before this court. The applicant has only prayed for setting aside the appellate order dated 21.10.2014. Though the applicant submitted that there was no evidence to implicate in the theft of cash of the office, he has not challenged the departmental proceeding

which culminated into passing of the penalty order dated 03.12.2013.

9. For the forgoing reasons, we are of the considered opinion that the applicant has failed to point out any infirmity in the order dated 21.10.2014. Accordingly, OA is dismissed.

(NEKKHOMANG NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICAIL MEMBER

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