



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5665/2024

KULEN SARMA
S/O- LATE BHABENDRA NATH SARMA,
RESIDENT OF RANGIA, WARD NO. -9,
POLICE STATION- RANGIA,
DISTRICT- KAMRUP, ASSAM,
PIN- 781354.

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY,
TO THE GOVERNMENT OF INDIA,
MINISTRY OF COMMUNICATION AND I.T.,
DEPARTMENT OF POSTS, DAK BHAWAN, NEW DELHI- 110116.

2:THE CHIEF POSTMASTER GENERAL ASSAM CIRCLE
MEGHDOOT BHAWAN GUWAHATI- 781001.

3:THE DIRECTOR OF POSTAL SERVICES (HQ)
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE GUWAHATI- 781001.

4:THE SENIOR SUPERINTENDENT OF POST OFFICES
GUWAHATI DIVISION MEGHDOOT BHAWAN
GUWAHATI DISTRICT- KAMRUP(M) ASSAM PIN- 781001.

5:THE ASSISTANT SUPERINTENDENT OF POST OFFICES
GUWAHATI WEST SUB-DIVISION
GUWAHATI DISTRICT- KAMRUP(M) PIN- 781001

Advocate for the Petitioner : MR. C BHATTACHARYYA, MR R DAS

Advocate for the Respondent : DY.S.G.I.,

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 06.11.2024
(Vijay Bishnoi, CJ)

Heard Mr. C. Bhattacharyya, and Mr. Ratul Das, learned counsel, appearing on behalf of the petitioner. Also heard Mr. B. Chakravarty, learned CGC, appearing on behalf of all the respondents.

2. This writ petition is filed by the petitioner challenging the order, dated 21.02.2019, passed by the learned Central Administrative Tribunal(CAT), Guwahati Bench, in Original Application No. 040/00091/2017.

3. Vide the impugned order, dated 21.02.2019; the Original Application No. 040/00091/2017, filed by the petitioner against the order, dated 28.07.2014, passed by the disciplinary authority removing him from service, has been dismissed.

4. The brief facts of the case are that the petitioner while working as a Gramin Dak Sevak(GDS) Branch Postmaster at the Rangia Tinali Branch Post Office, was served with a memorandum of charge, dated 14.06.2013, alleging, *inter alia*, that the petitioner has embezzled an amount to the tune of Rs. 2,20,000/- from different holders of SB/RD/RPLI Accounts/Holders on different dates.

5. In response to the said memorandum of charge, the petitioner had submitted his statement of defence. However, the same being found to be not

satisfactory, a regular inquiry was conducted by the Inquiry Officer. After a thorough inquiry and deposition of witnesses with due cross-examination by the petitioner; the Inquiry Officer had submitted his report. The disciplinary authority after taking into consideration the Inquiry Report submitted by the Inquiry Officer in the matter, has ultimately passed the order of removal of the petitioner from service on 28.07.2014. The appeal so preferred by the petitioner against the order of the disciplinary authority, has also been dismissed by the appellate authority on 25.03.2015.

6. Being aggrieved with the order of removal of the petitioner from service as well as the order passed by the appellate authority; the petitioner has approached the learned Central Administrative Tribunal(CAT), Guwahati Bench, by way of filing an Original Application being O.A. No. O040/00091/2017, which, upon consideration, came to be dismissed by the learned Central Administrative Tribunal(CAT), vide the impugned order, dated 21.02.2019, by observing, as under:

"10. From the enquiry report it appears that there was a preliminary hearing by the enquiry authority to enquire into the charge to enquire into the charge framed against the applicant where the applicant wanted to be heard in person and also submitted one application for engaging his defence assistant in the inquiry board-which was accepted. Thereafter regular enquiry started and the enquiry officer heard Mr H Kakati, Retd. PM, Barpeta HO who was engaged as defence assistant by the applicant (charged official). From the said enquiry report it appears that there was deposition of the prosecution witnesses and each examination-in-chief, thereafter cross examination by the applicant (charged official). Further, there was deposition of defence witnesses and thereafter findings was given by the enquiry officer as under:-

"From the analysis of above para from 14(a) to 14(g), 14(1) to 14(v), it is established that the charge framed against Shri Kulen Sarma, GDS BPM, (Under Put Off Duty) of Rangia Tiniali BO In account with Rangia RS SO stands Proved beyond doubt."

11. From the above it is crystal clear that there is no violation of natural justice, sufficient opportunity was given to the applicant for his defence even opportunity of cross examination and to engage defence assistant were given. We also find that the charges leveled against the applicant by the disciplinary authority are definite and specific. According to us, the defalcation of any amount whether less or more, committed by any official is a very serious offence and can never be tolerated. The applicant did not whisper about any procedural irregularity or any harsh punishment commensurate to the gravity of the offence.

12. Normally, court does not interfere in the departmental proceedings until and unless there is procedural lapses in the conduct of the enquiry or punishment is too harsh. Besides, no new points have been raised by the applicant in his appeal. Thus, from the above, we are of the considered view that the punishment imposed by the disciplinary authority and upheld by the appellate authority and the revisional authority does not warrant any interference. Accordingly, the OA is -dismissed being devoid of any merits."

7. It appears that the petitioner has not availed any remedy against the order passed by the learned Central Administrative Tribunal(CAT), Guwahati Bench, till filing of this writ petition. However, the petitioner, in this writ petition, has raised several grounds to impress upon this Court that the disciplinary proceeding so conducted against him, suffers from various infirmities.

8. It also appears that in the proceeding before the disciplinary authority, the petitioner had admitted his guilt in so many words while stating that on account of inevitable financial and household problems, he had committed the offence so alleged against him. As a matter of fact, before the disciplinary authority; the petitioner has given in writing that owing to financial hardship and household problems; he has embezzled the public money, in question.

9. It further appears that one of the reasons of challenging the impugned order, dated 21.02.2019, passed by the learned Central Administrative Tribunal(CAT), Guwahati Bench, available to the petitioner is that he has been acquitted by the competent criminal Court from the criminal charges in respect of the embezzlement of public money.

10. We have duly taken into consideration the grounds raised by the petitioner in this writ petition challenging the impugned order, dated 21.02.2019, passed by the learned Central Administrative Tribunal(CAT), Guwahati Bench. However, on consideration of the same; we have found that

the petitioner has miserably failed to point-out any procedural irregularities in the disciplinary proceeding, in question, and has also failed to point-out that harsh punishment commensurates to the gravity of the offence purportedly committed by him; has been inflicted upon him.

11. It is also to be noticed that the petitioner has failed to explain the delay satisfactorily in approaching this Court while challenging the impugned order, dated 21.02.2019, passed by the learned Central Administrative Tribunal(CAT), Guwahati Bench in Original Application No. 040/00091/2017.

12. The only reason furnished by the petitioner for causing delay in approaching this Court is that he was mentally upset after the passing of the impugned order, dated 21.02.2019, by the learned Central Administrative Tribunal(CAT), Guwahati Bench, and he was in deep financial crisis.

13. As projected in the writ petition, it is also to be mentioned that there are disputes in the petitioner's family relating to land and for that reason, he could not approach this Court immediately after passing of the impugned order, dated 21.02.2019, by the learned Central Administrative Tribunal(CAT), Guwahati Bench.

14. Situated thus, we do not find the above-noted reasons furnished by the petitioner in this writ petition, to be satisfactory to condone the delay in approaching this Court.

15. Taking into account the matter in its entirety, we are of the considered view that acquittal of the petitioner from the criminal case, cannot be treated

as a good ground for interfering, either, with the order of the disciplinary authority, or, with the impugned order of the learned Central Administrative Tribunal(CAT), Guwahati Bench, whereby, the learned Central Administrative Tribunal(CAT) has negated the challenge of the petitioner against the order of removal from service passed by the disciplinary authority.

16. In view of the above discussions; we do not find any merit in this writ petition and consequently, the same stands dismissed. However, there shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant