

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.P.No.24376 of 2016

R.Pandian .. Petitioner
versus

1. Union of India, Rep by the
The Postmaster General,
Chennai City Region,
Chennai 600 002.
2. The Superintendent of Post Offices,
Kanchipuram Division,
Kanchipuram 631 501.
3. The Assistant Superintendent of Posts (OD),
O/o. The Senior Superintendent of Post Offices,
Kanchipuram Division,
Kanchipuram 631 501 &
Adhoc Disciplinary Authority.
4. The Registrar,
Central Administrative Tribunal,
Madras High Court Campus,
Chennai 600 104. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records, relating to the order made in O.A.No.765 of 2012, dated 16.12.2014, quash the same and direct the respondents 1 to 3 to re-instate the petitioner into service, with all attendant benefits.

For Petitioner : Mr.R.Malaichamy

For Respondents 1 to 3: Mr.V.Balasubramanian

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Challenge in the present writ petition is to the order, dated 16.12.2014, made in O.A.No.765 of 2012, on the file of the Central Administrative Tribunal, Chennai, confirming, (i) Charge Memo No.ADA/02/2010-11, dated 30.11.2010, issued by the Assistant Superintendent of Post Offices (OD) & Adhoc Disciplinary Authority, Office of the Senior Superintendent of Post Offices, Kanchipuram Division, Kanchipuram 631 501, the 3rd respondent herein; (ii) Proceedings of the 3rd Respondent, dated 14.02.2011, removing the petitioner from service, (iii) Order of the Superintendent of Post Offices, Kanchipuram Division, Kanchipuram 631 501, the 2nd Respondent herein, in Memo No.ASP/Appeal-06/2010-11, dated 30.03.2011, confirming the order of 3rd Respondent dated 14.02.2011 and (iv) Order of the Postmaster General, Chennai, 1st Respondent herein, made in Memo No.VIG/Pet/1-1/2011/CCR, dated 30.11.2011, confirming the order of the respondents 2 and 3, dated 14.02.2011 and 30.03.2011 respectively. The writ petitioner has prayed to set aside the order above orders and consequently, sought for directions to the respondents 1 and 2, to conduct a fresh inquiry, after reinstating the petitioner in service, and to pay the enhanced compensation w.e.f. 01.11.2009 to 14.02.2011 to the petitioner.

2. Short facts leading to the writ petition are as follows:

The petitioner was working as GDSMD, Aranvoyal BO, a/w Tirur SO, in the jurisdiction of Kanchipuram Postal Division. He was alleged to have committed fraud in payment of Money Orders entrusted to him, for payment to the members of the public. He was placed under put off duty, vide Memo of Assistant Superintendent of Post Offices (ASP), Tiruvallur Sub Division, dated 04.08.2009. As the Assistant Superintendent of Post Offices (ASP), Tiruvallur Sub Division, appointing authority, was said to be one of the material witnesses in the case, the Assistant Superintendent of Post Offices (OD), Kanchipuram Division has been appointed by the Post Master General, Chennai City Region, Chennai, 1st Respondent, vide Memo, dated 20.07.2010, as the Adhoc Disciplinary Authority, with reference to the provisions in rule 5 of Gramin Dak Sevaks (Conduct and Employment) Rules, 2001. After verification and preliminary investigation, the Assistant Superintendent of Post Offices (OD) & Adhoc Disciplinary Authority, Office of the Senior Superintendent of Post Offices, Kanchipuram Division, Kanchipuram 631 501, the 3rd respondent herein, has initiated disciplinary action, under Rule 10 of Gramin Dak Sevaks (Conduct

and Employment) Rules, 2001, against the petitioner, vide charge-memo, dated 30.11.2010. The Articles of charges, framed against the petitioner, are as follows:

"Article I:

That the said Shri R.Panuiyan GDS MD, Aranvoyal BO a/w Tirur SO under Tiruvallur HO while working as such did not pay the value of the following MOs to the payee in contravention of the provisions of Rules 121 (2) and (4) read with preamble note under the head 'Postman' in chapter III of Postal Manual Volume VI part III Sixth edition, the provisions of Rules 10(1) of Rules for Branch offices (Seventh Edition) and thereby failed to maintain absolute integrity and devotion to duty as required of him under Rule 21 of Department of Posts Gramin Dak Sevaks (Conduct and Employment) Rules 2001:

(1) MO No.4418-13 dated 30/4/09 of Tiruvallur HO for Rs.376/- payable to Smt.Jamuna.

(2) MO No. 4268-14 dated 27/02/09 of Tiruvallur HO for Rs.376/- payable to Smt.Jamuna.

(3) MO No. 4353-13 dated 02/04/09 of Tiruvallur HO for Rs.376/- payable to Smt.Jamuna.

Article II:

That the said Shri R.Pandiyan GDS MD, Aranvoyal BO a/w. Tirur SO under Tiruvallur HO while working as such did not pay the value of MO No.4765/21 dated 25.07.09 of Tiruvallur HO for Rs.1500/- payable to Smt.G.Santha, to the payee and thus contravened the provisions of Rules 121(2) read with preamble note under the head 'Postman' in Chapter III of Postal Manual Volume VI Part III Sixth edition, the provision of Rule 10(1) of Rules for Branch offices (Seventh Edition) and thereby failed to maintain absolute integrity and devotion to duty as required of him under Rule 21 of Department of Posts Gramin Dak Sevaks (Conduct and Employment) Rules 2001."

3. After receiving the charge memo, dated 03.12.2010, the petitioner has submitted a representation, dated 13.12.2010, requesting the authorities, to excuse him for his misconduct. The Assistant Superintendent of Post Offices (OD) & Adhoc Disciplinary Authority, Office of the Senior Superintendent of Post Offices, Kanchipuram Division, Kanchipuram 631 501, the 3rd respondent herein, vide memo, dated 23.12.2010, has appointed the ASP (Head Quarters), Kanchipuram Division, as the Inquiry Officer and the Inspector Posts (IP), Tiruttani West Sub Division, as the Presenting Officer. The Inquiry Officer has conducted a preliminary hearing on 07.01.2011, in which, the petitioner has admitted the charges and pleaded to pardon him.

In view of the admission, by observing that further inquiry was not necessary, the Inquiry Officer has concluded the inquiry, with the preliminary hearing and submitted his report, dated 10.01.2011, holding that the charges framed against the petitioner, as proved. A copy of the report of the Inquiry Officer, dated 10.01.2011, was sent to the petitioner, on 20.01.2011 by the 3rd Respondent, with directions to submit his written representation, if any. In response to the same, the petitioner has submitted his representation, dated 27.02.2011, admitting both the Articles of charge and pleaded guilty. The Ad hoc Disciplinary Authority (DA), vide memo, dated 14.02.2011, imposed a penalty of removal from service.

4. Being aggrieved by the same, the petitioner has submitted an appeal to the Superintendent of Post Offices, Kanchipuram Division, the appellate authority and the 2nd Respondent herein, and vide order, dated 30.03.2011, the same was rejected. He made a further appeal, dated 15.04.2011, to the Post Master General, Chennai City Region, the 1st respondent herein and vide order, dated 30.11.2011, the same was rejected. Being aggrieved, the petitioner has filed O.A.No.765 of 2012, before the Central Administrative Tribunal, Madras Bench, Chennai, to set aside the abovesaid orders, and consequently, prayed for directions, as stated supra.

5. Before the Tribunal, the petitioner has contended that the Superintendent of Post Offices, Kanchipuram Division, Kanchipuram 631 501, the 2nd Respondent herein, was the immediate superior to the Inquiry Officer and under the compulsion of 2nd Respondent, the Inquiry Officer has obtained a dictated statement from the petitioner and closed the inquiry, in one sitting and submitted his report, dated 10.01.2011, to the 3rd Respondent. He has further contended that the Inquiry Officer, Supervisor in the Divisional office, through whom, the petitioner's disciplinary case file was routed, was not qualified to be appointed as an Inquiry Officer, as per the instructions contained in the letter of Director General, Postal and Telegraph Department, dated 20.05.1976. The Inquiry Officer has erred in concluding the charges, as proved, on the basis of alleged admission of charges, by the petitioner.

6. Before the Tribunal, the petitioner also contended that in his petition, dated 15.04.2011, addressed to the Postmaster General, Chennai, 1st Respondent herein, he has submitted that payment of money orders were made to wrong persons and that he had credited the said amount, into UCR and therefore, he had not misappropriated the money order amounts, and due to non availability of the payees, he had made the payment to their near relatives, as requested by them. According to writ petitioner, it was the only a lapse committed by him, and that

there was no complaint against him, by the payee, for non-payment of money orders, as alleged in the charge memo.

7. The writ petitioner has further contended that imposition of major penalty of removal from service, is disproportionate to the charges levelled against him. According to him, the Inquiry Officer did not conduct the inquiry, as per GDS (C & E) Rules, 2001. Contention has also been made that though, as many as 30 documents were listed in Annexure III of the Charge memo and based on which, charges were proposed to be sustained, copies of documents were not supplied to the petitioner and therefore, there is a violation of principles of natural justice. Further contention has been made that though, in the Annexure IV of charge memo, 9 witnesses were cited, 5 names were not found in the imputations of misconduct or misbehaviour, and therefore, the writ petitioner had no opportunity to know, how these witnesses were relevant to the case. Contentions have also been made that adequate compensation or subsistence allowance was not paid, during enquiry.

8. Before the Tribunal, by way of reply, the official respondents have submitted that the orders passed by the disciplinary authority, the appellate authority and the revisionary authority, were in accordance with the rules and merits. Placing reliance on the judgment of the Hon'ble Supreme Court in *UOI v. Ganayutham* reported in 1997 (7) SCC 463, the respondents have submitted that no interference is required, on the quantum of punishment, as the charges are grave.

9. Placing reliance on the decisions in *Vice-Chairman, Kendriya Vidyalaya Sangathan v. Girdharilal Yadav* reported in 2004 (6) SCC 325, *LK Verma v. HMT Ltd* reported in 2006 SCC (L&S) 278, *Chairman, MD, VSP and Ors. v. Gopuraju Sri Prabhakra Hari Babu*, reported in 2008 (2) SCC (L&S) 311 and *North West Karnataka Road Transport Corporation v. H.H.Pujar* reported in 2011 SCC (L&S) 251, the respondents have submitted that once the delinquent had admitted the charges, there is no need to conduct an enquiry and prove the same.

10. Before the Tribunal, placing reliance on the decision in *UP State Road State Transport Corporation v. Suresh Chandra Verma* [CA No. 3086 of 2007, dated 26.05.2010], the respondents have contended that once the intention of misappropriation of public money is established, penalty of removal, cannot be said to be disproportionate.

11. The respondents have submitted that when charges were served, the petitioner himself appeared before the Inquiry Officer and in his representation, dated 13.12.2010, to the charge memo, he had pleaded to excuse him, for the misconduct. During the preliminary hearing on 07.01.2011, when the Inquiry

Officer read out the Articles of Charge and asked him, as to whether he pleads guilty or not, the petitioner had categorically declared that he had understood the charges and admitted the same, unconditionally. When the petitioner did not refute the charges, the Inquiry Officer has submitted his report, dated 10.01.2011, holding that the charges as proved, as admitted.

12. Before the Tribunal, the respondents have further contended that both in the appeal, dated nil (received on 23.02.2011) and the petition, dated 15.04.2011, the petitioner had not challenged the charges, but only explained about his family problems and requested for a lenient view. In the appeal petition, the petitioner had admitted that he had committed the mistake, but only mentioned about his personal problems and sought for mercy. Before the Tribunal, the respondents have further submitted that having admitted the charges, unconditionally, the averments of the petitioner that he had not misappropriated the money order amount, is only an afterthought. Respondents have further contended that even in the statement, dated 01.06.2010, submitted before the Assistant Superintendent of Post Office, Tiruvallur Sub Division, 3rd respondent herein, ie., even the before formulation of the charge memo, the petitioner has admitted the charges, stating that he had affixed the signature of the payees and taken the amount for his personal use.

13. The respondents have further submitted that the copy of the report of the Inquiry Officer was supplied to the writ petitioner, so as to enable him to make his representation on the report and that the Superintendent of Post Offices, Kanchipuram Division, Kanchipuram 631 501, the 2nd Respondent herein, has no role in the disciplinary proceedings, finalised by the Assistant Superintendent of Post Offices (OD) & Adhoc Disciplinary Authority, Office of the Senior Superintendent of Post Offices, Kanchipuram Division, Kanchipuram 631 501, the 3rd respondent herein. According to the respondents, as per Rule 14 (9) of CCS (CCA) Rules, 1965, if the charged official pleads guilty of any of the articles of charge, the Inquiry Officer shall record the plea and return the findings of guilt, in respect of those articles of charge, to which, the charged official pleads guilty. Thus, the respondents have submitted that the petitioner had voluntarily and unconditionally admitted all the charges.

14. Before the Tribunal, the respondents have further submitted that there were irregularities in payment of money orders, meant for the members of public, in rural areas and realising the mistake, the writ petitioner had come forward to make good the public money misappropriated by him. Money should have been paid to one Mrs. Jamuna. But the same was not paid.

Investigation taken up by the Assistant Superintendent of Post Offices (OD) & Adhoc Disciplinary Authority, Office of the Senior Superintendent of Post Offices, Kanchipuram Division, Kanchipuram 631 501, the 3rd respondent herein, unearthed non-payment of 3 money orders, each of Rs.376/-, on various dates, to the same person (Mrs.Jamuna) and another money order for Rs.1,500/-, shown as paid on 04.08.2009 to one G.Santha. Contention has been made by the respondents that earlier, during the year 2002, for the irregularities with regard to non-payment of OAP money orders, the writ petitioner was departmentally proceeded with and awarded with a penalty of debarring him, from appearing in the recruitment examination for the post of Postman for a period of 3 years, vide memo, dated 26.09.2003. The respondents have refuted the averments of the petitioner that there was no complaint by the payee against him, for non-payment of money orders, on the ground that they had been received the same, by their relatives. According to the respondents, investigation was carried on, based only on the complaints received from the payees.

15. On the payment of Ex-gratia compensation, before the Tribunal, the respondents have submitted that whatever admissible, has been paid. On non-furnishing of copies of documents, referred to in the charge memo, the respondents have contended that the petitioner did not raise any plea, in his representation to the charge sheet or in the preliminary hearing held on 07.01.2011, but voluntarily and categorically admitted the charges.

16. Relevant CCS (CCA) Rules, 1965, considered by the Tribunal, while taking note of the judgment of the Tribunal in O.A.Nos.1139 and 1351 of 2011, for deciding the case on hand, are as follows:

"Rule 14(4), 14(5), 14(9), 14(10):

(4) The disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charges is proposed to be sustained and shall require the Government servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

(5)(a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary so to do, appoint, under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge

have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 15.

(b) If no written statement of defence is submitted by the Government Servant, the disciplinary authority may itself inquire into the articles of charge, or may, if it considers it necessary to do so, appoint, under sub-rule (2), an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a Government servant or a legal practitioner, to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

.....

9) If the Government servant who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilt to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the Government servant thereon.

(10) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the government servant pleads guilty.

Rule 15(2) and 15(2A):

(2) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority together with its own tentative reasons for disagreement, if any, with the findings of inquiring authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the disciplinary authority within fifteen days, irrespective of whether the report is favourable or not to the Government servant.

(2A) The disciplinary authority shall consider the representation, if any, submitted by the Government servant and record its findings before proceeding further in the matter as specified in sub-rules (3) and (4)."

17. After considering the material on record, grounds raised, the Tribunal has observed that in none of the cases, relied on by the learned counsel for the petitioner, it has been held that in case of admission of alleged misconduct, in a regular proceeding initiated (as distinct from preliminary inquiry) against the employee concerned, an inquiry has to be conducted. Per contra, the decisions relied on by the respondents, considered as applicable to the facts and circumstances of the instant case, by the Tribunal, are as follows:

"(1) In Vice-Chairman, Kendriya Vidyalaya Sangatan v. Girdharilal Yadav reported in 2004 (6) SCC 325, the Hon'ble Supreme Court observed as under:-

"11. In terms of Section 58 of the Evidence Act, 1872 facts admitted need not be proved. It is also a well-settled principle of law that the principles of natural justice should not be stretched too far and the same cannot be put in a straitjacket formula.... "

(2) In the case of LK Verma v. HMT Ltd reported in 2006 SCC (L&S) 278, the Hon'ble Supreme Court said as follows:

"The Labour Commissioner, in our considered opinion, misdirected himself in passing the said order. Whereas, on the one hand, he noticed that the Appellant, herein had stated that during the preliminary enquiry he made those utterances owing to tension in his mind, he opined that no evidence had been produced against him for which he has been dismissed from service. It is now well-settled that things admitted need not be proved. [See Vice-Chairman, Kendriya Vidyalaya Sangatan v. Girdharilal Yadav reported in 2004 (6) SCC 325]

(3) In the case of Chairman & MD, V.S.P., and Ors., v. Gopuraju Sri Prabhakra Hari Babu reported in 2008 (2) SCC (L & S) 278, the Hon'ble Supreme Court said as follows:

"15. Indisputably, respondent was a habitual absentee. He in his explanation, in answer to the charge sheet pleaded guilty admitting the In terms of Section 58 of the Indian Evidence Act, charges having been admitted were not required to be proved. It was on that premise that the enquiry proceeding was closed. Before the enquiry officer, he did not submit

r expiration that his mother being ill. He, despite opportunities granted to report to duty, did not do it. He failed to explain even his prior conduct.

(4) In Sangramsingh P. Gaekwad & Ors., v. Shantadevi P. Gaekwad (Dead), through LRs., & Ors., reported in 2005 (11) SCC 314, the Hon'ble Supreme Court noticing Section 58 of the Indian Evidence Act, held :

"214. In terms of the aforementioned provision, things admitted need not be proved. In view of the admission of Respondent 1 alone, the issue as regards allotment of 6475 shares should have been answered in favour of the appellants. The company petitioner at a much later stage could not be permitted to take a stand which was contrary to or inconsistent with the original pleadings nor could she be permitted to resile from her admissions contained therein."

18. On the facts and circumstances of the case on hand and on the scope and powers to interfere in disciplinary matters, the Tribunal has considered the following decisions, viz., Maruti Udvod Ltd. v. Ram Lai and Others [(2005) 2 SCC 638]; State of Bihar & Ors. v. Amrendra Kumar Mishra [2006 (9) SCALE 549]; Regional Manager, SBI v. Mahatma Mishra [2006 (11) SCALE 258]; State of Karnataka v. Ameerbi & Ors. [2006 (13) SCALE 319]; State of M.P. and Ors. v. Saniav Kumar Pathak and Ors. [2007 (12) SCALE 72] and Uttar Haryana Biili Vitran Nizam Ltd. & Ors. v. Surji Devi [CA No.576 of 2008 decided on 22.1.2008].

19. Portion of the judgment in O.A.Nos.1139 and 1351 of 2011, considered by the Tribunal, for the purpose of deciding the case on hand, are extracted hereunder:

"It is clear from the provisions of Rules extracted above, that the proper procedure was followed in the departmental proceedings in this case. Admissions made would not lose their efficacy and relevance for the purpose of the wheels of the inquiry set into motion unless there are acceptable reasons that the same are not voluntary or are under force or duress. In this context, to appreciate the consequence of admission of a fact, the general position in law can be seen by referring to the provisions of Section 58 of the Evidence Act. Section 58 of the Indian Evidence Act deals with the facts which are admitted and hence not required to be proved. It provides that no fact need to be proved in any proceedings which the parties thereto or their agents agree to admit at the hearing or which before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings. The

proviso to this section states that the Court may in its discretion, require the facts to be admitted to be proved otherwise than by such admissions.

8. It may be worthwhile to refer here to the judgment in the case of Channabasappa Basappa Happali vs State of Mysore [AIR 1972 SC 32], wherein the Hon'ble Supreme Court said on 16 October, 1970 as follows:

"It was contended on the basis of the ruling reported in Regina v. Durham Quarter Sessions Ex-parte Virgo [1952 (2) QBD 1], that on the facts admitted in the present case, a plea of guilty ought not to be entered upon the record and a plea of not guilty entered instead. Under the English law, a plea of guilty has to be unequivocal and the court must ask the person and if the plea of guilty is qualified the Court must not enter a plea of guilty but one of not guilty. The police constable here was not on his trial for a criminal offence. It was a departmental enquiry, on facts of which due notice was given to him. He admitted the facts. In fact his counsel argued before us that he admitted the facts but not his guilt. We do not see any distinction between admission of facts and admission of guilt. When he admitted the facts, he was guilty. The facts speak for themselves..... The learned Single Judge in the High Court was right when he laid down that the plea amounted to a plea of guilty on the facts on which the petitioner was charged and we are in full agreement with the observations of the learned, Single Judge.

The case really is not one of any merit; the plea raised before us was in ad misericordiam. We were asked to take the view that this man was actuated by his own feeling that leave would be extended and further that his going on fast was not for the purpose of the administration but for some other purpose. Even if we were to take the admission as a whole with all its qualifications, we are quite clear that he admitted the facts necessary to establish the charge against him.

The learned counsel for the appellant further relied upon a ruling of this Court in Jagdish Prasad Saxena v. State of Madhya Bharat. That case is absolutely distinguishable. There are of course certain general observations about the importance of a departmental enquiry and how it should be conducted. We have here a clear case of a person who admitted the facts and did not wish to cross-examine any witness or lead evidence on his own behalf. there cannot be a complaint

that the departmental enquiry was either one-sided or not fair. On the whole therefore we are satisfied that the appellant was properly adjudged guilty of indiscipline in the departmental enquiry and the order of dismissal which was passed against him was merited.....

9. In Additional District Magistrate, Agra vs. Prabhakar Chaturvedi & Anr. [decided on 8th January, 1996], reported in 1996 (1) SCC 718, the case arose out of misappropriation of money by an employee who had admitted the fact in writing. After a disciplinary inquiry, the employee was dismissed from service. His statutory appeal also failed. In the Writ petition filed by the employee before the High Court of Judicature at Allahabad, the same was allowed by the learned Single Judge on the ground that the authorities had not given adequate opportunity to the employee to defend as he was not permitted to examine witnesses nor he was supplied the documents, the dismissal order was quashed and set aside and the employee was directed to be reinstated with full back wages. In a challenge to the said order of the Allahabad High Court before the Supreme Court, the Supreme Court observed as under:

"4..... in our view, the High Court has erred in ignoring the salient features of the case namely that Respondent himself by his statement dated 14.12.1984 admitted to have received an amount of Rs.21,000/- and odd and which could not be deposited by him along with his associate on account of their carelessness and fault. It is difficult to appreciate how the said statement could be said to have been brought about by any coercion as tried to be submitted on behalf of the respondent. But even apart from that the order sheet of the Enquiry Officer clearly shows that Respondent Prabhakar as well as Sajan Kumar had submitted that they have not to give any documentary or oral evidence and that is how their evidence was closed. Under these circumstances the subsequent request by Respondent to examine four more witnesses was rightly considered by the Enquiry Officer to be an afterthought and accordingly such request was rightly rejected. In fact, on account of the clear admission contained in writing given by Respondent on 14.12.1984 the charge against him stood proved on admission and the only question that remained to be considered was about the nature of punishment to be imposed on him."

10. In Chairman and Managing Director vs Goparaju Sri Prabhakar Haribabu, the matter arose out of issue of charge sheet for absence without leave for a period

of 53 days. The employee had admitted the charges and promised to be regular. In the disciplinary proceedings the employee had accepted his guilt whereupon the inquiry proceedings were closed recording the admission of the charges as made by the employee. The disciplinary authority upon consideration of the inquiry report held the employee guilty of all the charges and ordered removal from service. In this context, the Hon'ble Supreme Court observed as under:

"16. He in his explanation in answer to the charge sheet pleaded guilty admitting the charges. In terms of Section 58 of the Evidence Act charges having been admitted were not required to be proved. It was on that premise that the enquiry proceedings was closed. Before the enquiry officer, he did not submit the explanation of his mother being ill. He despite opportunities granted to report to duty, did not do it. He failed to explain even his prior conduct."

20. On the facts and circumstances of the case, the Tribunal, at Paragraphs 19 and 20, in the order made in O.A.No.765 of 2012, dated 16.12.2014, held as follows:

"19. This is not a case where there was any ambiguity in the admission of the Applicant of his guilt or that is was with reservations or under coercion. In his representation dated 13.12.2010 to the charge memo, h2 pleaded to be excused for his misconduct. He had pleaded guilty. In the inquiry also, during the preliminary hearing on 07.01.2011, when the IO read out the Articles of Charge and asked him whether he pleaded guilty or not, the Applicant had declared that he understood the charges and admitted them unconditionally and accordingly the IO concluded the inquiry with the preliminary hearing and submitted his report dated 10.01.2011 holding the charges as proved on admission. The Applicant did not refute the finding of the IO when the copy of the report of the IO was supplied to him to enable him to make his representation. Both in his appeal dated nil (received on 23.02.2011) and the petition dated 15.04.2011, he had not challenged the charges but only explained his family problems and requested for a lenient view. If a dictated statement was obtained from under compulsion, he could have represented so to the Disciplinary Authority or the Appellate Authority or in his petition to the 1st Respondent. The position in Rule 14 (9) of CCS (CCA) Rules, 1965 is very clear that if the charged official pleads guilty of any of the Articles of charge, the IO shall record the plea

and return the finding of the guilt in respect of those Articles of charge to which the charged Official pleads guilty. In view of the law laid down in the deluge of judgments of the Hon'ble Apex Court etc. referred to in paras 17 and 18 above, inquiry is not necessary when the admission of guilt is unqualified/without any reservations or conditions.

20. The alleged misconduct on the part of the Applicant was serious in nature. He had come forward to make good the MO amount only after investigation done by ASP, Tiruvallur Sub Division who unearthed non-payment of 3 MOs to the same person (Jamuna) and another MO shown as paid on 04.08.2009 to one G. Santha. The investigation was carried out based on the complaints received from the payees and, therefore, the averment of the Applicant that there was no complaint by the payees against the Applicant for non-payment of MOs as they had received the same from their relatives, was not correct. The penalty imposed on him cannot be said to be disproportionate or grossly excessive to the gravity of misconduct. Ex-gratia compensation equal to 25% of TRCA together with admissible DA is said to have been paid to the Applicant every month from September 2009 to February 2011, as prescribed by Rule 12(3) of GDS (Conduct & Employment) Rules 2001, and the Applicant did not seek any enhancement of the amount during the proceedings. Thus the Applicant was not handicapped in the defence of his case by non-payment of the enhanced amount he is now claiming.

21. In the facts and circumstances of the case and the legal position set out above, it is not possible to interfere in the matter and provide the relief sought by the Applicant. The OA is- accordingly dismissed. No order as to costs."

21. Though Mr.R.Malaichamy, learned counsel appearing for the writ petitioner, reiterated the very same submissions made before the Tribunal, perusal of the materials on record and going through the orders of the authorities and the Tribunal, this Court is not inclined to accept the same. From the reading of the impugned order of the Tribunal and the orders of the authorities, it is abundantly clear that the writ petitioner has categorically admitted the charges and pleaded only to excuse him.

22. In this regard, this Court deems it fit to record, as to what, the writ petitioner has said before the authorities. Before the appellate authority, the writ petitioner has stated as follows:

"இந்த வழக்கில் உள்ள நான்கு மணியார்டர்கள், பட்டுவாடா செய்யாதது என்னுடைய குடும்ப சூழ்நிலையால் ஏற்பட்டது. கீழ்க்கண்ட விவரங்களை இந்த மேல் முறையீட்டில் தங்களுக்கு பணிவடன் சமர்ப்பிக்கிறேன்.

1. என் தவறை உணர்ந்து உடனடியாக மணியார்டர் தொகையினை யாருடைய வற்புறுத்தல் இல்லாமல் நானே முன்வந்து அஞ்சலகத்தில் செலுத்திவிட்டேன். இ தனால் அஞ்சல் துறைக்கு எந்தவிதமான நஷ்டமும் இல்லை.

.....

3. அஞ்சல் துறை நடத்திய விசாரணையின்போது என் தவறை உணர்ந்து அதிகாரிகளின் முன்னிலையில் ஒப்புகொண்டு அஞ்சல் துறை அதிகாரிகளுக்கு முழு ஒத்துழைப்பு அளித்தேன்.

.....

தவறை செய்ததற்கு தவறை உணர்ந்து மறுபடியும் நல்ல முறையில் பணியாற்ற கருதும்போது இந்த உச்சகட்ட தண்டனை என்னுடைய வாழ்வையே பாதிக்கிறது. G.D.S.M.D. ஊழியர்களுக்கு பல்வேறு தண்டனைகள் உள்ளன. நான் என் தவறை உணர்ந்து, நானே முன்வந்து பணத்தை யாருடைய வற்புறுத்தல் இல்லாமல் செலுத்தியும், விசாரணையின் போதும் யாருடைய வற்புறுத்தல் இல்லாமல் விசாரணையில் தவறை ஒப்புகொண்டும், துறைக்கு என்னால் எந்த இழப்பும் இ ல்லாதபோதும் என்னுடைய குடும்ப சூழ்நிலையை விளக்கி இருந்தும் எதையும் கருதாமல் பணிநீக்க உத்தரவு, (Removed from service) வழங்கப்பட்டுள்ளது "

The translated version of the above, as extracted in the appellate order, are that,

"In my case, the non-payment of money orders took place because of my family situation.

1. I have voluntarily credited the value of money orders taking responsibility for my mistake and hence there was no loss to the Department.

.....

3. I have co-operated fully with Inquiry Officer, I have realised my mistake.

.....

When I have realised my mistake, this punishment was imposed on me. On coming to know of my mistake, I credited the amount without any compulsion. I have admitted the charges during regular inquiry. There was no loss to the Department, I have narrated my family situation but without considering all the above facts, I was removed from service."

23. In the second appeal, filed before the Chief Postmaster General, Chennai, 1st respondent herein, the writ petitioner has stated as follows:

".....நான் என்னுடைய குற்றத்தை நானே முன்வந்து விசாரணையில் ஒத்துக்கொண்டு மன்னிப்பு கேட்டேன். ஆனால் ருளீ காஞ்சிபுரம் அவர்கள்

தன்னுடைய மெமோ எண் றுனுரு.02.20,10,2011 னுகூ 14,02,2011 என்னை பணியிலிருந்து நீக்கி உத்தரவிட்டோர்.

4. இந்த வழக்கிலுள்ள 4 மணியார்டர்கள் பட்டுவாடா செய்யாதது என்னுடைய குடும்ப சூழ்நிலையால் ஏற்பட்டது. இதுபோன்ற தவறுகள், இனி எக்காலத்திலும் செய்யமாட்டேன் என்று உங்களுக்கு உறுதி அளிக்கிறேன்.

5. இந்த வழக்கில் என் தவறை உணர்ந்து உடனடியாக யாருடைய வற்புறுத்தலில்லாமல் நானே முன்வந்து அஞ்சலகத்தில் பணம் செலுத்திவிட்டேன். இதனால் அஞ்சல் துறைக்கு எந்த விதமான பண நஷ்டத்தை ஏற்படுத்தவில்லை.

6. அஞ்சல் துறை நடத்திய விசாரணையின்போது அஞ்சல் துறை அதிகாரிகளுக்கு முழு ஒத்துழைப்பை, கொடுத்து, நேர்முக விசாரணையின்போது என் தவறை நானே முன்வந்து ஒப்பக் கொண்டேன்.

Translated version of the above, in the order of the Chief Postmaster General, Chennai, are that,

"ASP, Kanchipuram, Adhoc disciplinary authority issued a memo in ADA/02/2010-11 dated 30.11.2010. I have realised my mistake and tendered apology during regular inquiry. But, the Ad hoc disciplinary authority has removed from service vide memo No.ADA/02/2010-11 dated 14.2.2011.

.....

4. Non-payment of 4 money orders happened due to my family conditions. I have promised that I will not commit any mistake in future.

5. I have realised my mistake and credited the amount without compulsion. Hence, there is no loss to the Department.

6. I have co-operated fully with Inquiry Officer, I realised my mistake."

24. From the extract of the above, it is evident that the admission of the petitioner, is voluntary, categorical and unequivocal. All the fact finding authorities have found that the writ petitioner had voluntarily admitted the charges, and only explained about his family problems and requested leniency. As rightly observed by the Tribunal, if there was any compulsion, by the inquiry officer, the petitioner could have very well made a representation to the disciplinary authority or the appellate authority, as the case may be. But material on record discloses that there was no complaint, against the inquiry officer. On the contra, there is a clear unequivocal admission of the charges, before the fact finding authorities. Rule 14(9) of CCS (CCA) Rules, 1965, also makes it clear that if the charged official pleads guilty of any of the articles of charge, the Inquiry Officer shall record the plea and return the finding of the guilt, in respect of those Articles of charge, to

which, the charged official pleads guilty. On the facts and circumstances of this case, it is abundantly clear that either before the disciplinary authority or the appellate authority, the petitioner has pleaded that because of compulsion, he had given the statement, admitting guilt.

25. Though it is the case of the petitioner that the Tribunal has not addressed the issue, as to whether, the admission was voluntary or under compulsion. We are not inclined to accept the same, in view of what we have extracted.

26. On the aspect of reappraisal of evidence, this Court is inclined to consider few decisions,

(i) In Government of T.N. v. A.Rajapandian reported in 1995 (1) SCC 216, the Hon'ble Supreme Court, while considering the above issue, at Paragraphs 9 and 10, held as follows:

"9. This Court in Union of India v. Sardar Bahadur reported in 1972(4) SCC 618, held as under:

"A disciplinary proceeding is not a criminal trial. The standard of proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that Nand Kumar was a person beyond reasonable doubt. If the inference that Nand Kumar was a person likely to have official dealings, with the respondent was one which reasonable person would draw from the proved facts of the case, the High Court cannot sit as a Court of appeal over a decision based on it. Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion exercising its jurisdiction under Article 226 to review the materials and to arrive at an independent finding on the materials. If the enquiry has been properly held the question of adequacy of reliability of the evidence cannot be canvassed before the High Court."

10. In Union of India v. Parma Nanda reported in 1989 (2) SCC 177, this Court observed as under:

"We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance

with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority."

(ii) In *Rae Bareilly Kshetriya Gramin Bank v. Bholanath Singh and others* reported in 1997 (3) SCC 657, the Hon'ble Supreme Court, at Paragraph 6 of the judgment, answered a question as to whether the High Court would be correct in law to appreciate the evidence, the manner in which the evidence was recorded and record a finding in that behalf. The Hon'ble Court held as follows:

"The judicial review is not akin to adjudication of the case on merits as an appellate authority. The High Court, in the proceedings under Article 226 does not act as an appellate authority but exercises within the limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice."

(iii) The Hon'ble Supreme Court in *Commissioner and Secretary to the Government v. C. Shanmugam*, reported in 1998 (2) SCC 394, considered a case of compulsory retirement, interfered by the Tribunal, on the ground of absence of evidence. The Hon'ble Apex Court, after dealing with various judgments on the point, held that only in the absence of any evidence, i.e., no evidence or if there was any perversity, the Court can interfere. At Paragraph 2 of the judgment, the Hon'ble Supreme Court held as follows:

"It is seen from the order of the Tribunal that at the regular departmental enquiry held, the employees who were present at the time of the incident in the office on 02.08.1980 were examined and they all supported the charges (misbehaviour with the superior officer) levelled against the respondent/delinquent. The Tribunal on a re-appreciation of evidence, in judicial review, was of the view that the enquiry report based on such evidence cannot be totally accepted as free from bias and an order passed on such reports cannot be accepted as a fair and just one. Assailing this view of the Tribunal, the learned counsel appearing for the appellants brought to our notice three judgments of this Court reported as *State of T.N. v. Subramaniam*, *Govt. Of T.N. v. A. Rajapandian* and *State of Haryana v. Rattan Singh*. In *State of T.N. v. Subramaniam*, a three-Judge Bench of this Court observed as follows: (SCC.pp.511-12, para 5)

"The only question is: Whether the Tribunal was right in its conclusion to appreciate the evidence to reach its own finding that the charge has not been proved. The Tribunal is not a Court of appeal. The power of judicial review of the High Court under Article 226 of the Constitution of India was taken away by the power under Article 323-A and invested the same in the Tribunal by the Central Administrative Tribunals Act. It is settled law that the Tribunal has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees. It is the exclusive domain of the disciplinary authority to consider the evidence on record and to record the findings whether the charge has been proved or not. It is equally settled law that technical rules of evidence have no application for the disciplinary proceedings and the authority is to consider the material on record. In judicial review, it is settled law that the Court or the Tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It is meant to ensure that the delinquent receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the view of the Court or Tribunal. When the conclusion reached by the authority is based on evidence, Tribunal is devoid of power to re-appreciate the evidence and would (sic) come to its own conclusions on the proof of the charge. The only consideration the Court/Tribunal has in its judicial review is to consider whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence."

(iv) In Apparel Export Promotion Council v. A.K.Chopra reported in 1999 (1) SCC 759, the Hon'ble Supreme Court, at Paragraphs 16 and 17 held as follows:

"16. The High Court appears to have overlooked the settled position that in departmental proceedings, the disciplinary authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power/and jurisdiction to re-appreciate the evidence and come to its own conclusion, on facts, being the sole fact-finding authorities. Once findings of fact, based on appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings

unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court. Since the High Court does not sit as an appellate authority over the factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot, normally speaking, substitute its own conclusion, with regard to the guilt of the delinquent, for that of the departmental authorities. Even insofar as imposition of penalty or punishment is concerned, unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that it shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty. Both the learned Single Judge and the Division Bench of the High Court, it appears, ignored the well-settled principle that even though judicial review of administrative action must remain flexible and its dimension not closed, yet the Court, in exercise of the power of judicial review, is not concerned with the correctness of the findings of the fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. Judicial review, it must be remembered, is directed not against the decision, but is confined to the examination of the decision-making process. Lord Hailsham in *Chief Constable of the North Wales Police v. Evans* reported in 1982 (3) ALL. ER 141 HL observed:

"The purpose of judicial review is to ensure that the individual receives fair treatment, and not to ensure that the authority, after according fair treatment, reaches, on a matter which it is authorised or enjoined by law to decide for itself, a conclusion which is correct in the eyes of the Court."

"17. Judicial review, not being an appeal from a decision, but a review of the manner in which the decision was arrived at, the Court, while exercising the power of judicial review, must remain conscious of the fact that if the decision has been arrived at by the administrative authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the Court cannot substitute its judgment for that

of the administrative authority on a matter which fell squarely within the sphere of jurisdiction of that authority."

(v) The above position was reiterated in *Commandant v. D. Paul* reported in 1999 SCC (L&S) 789, and at Paragraphs 4 and 5 of the judgment, the Hon'ble Supreme Court held as follows:

"4.It is not the function of the Tribunal to review the decision and to arrive at an independent finding on the evidence and that if there be some legal evidence on which the findings can be based, the adequacy or the reliability of that evidence is not a matter which can be permitted to be canvassed before the Tribunal."

"5. It is settled law that the Tribunal, while exercising its power of judicial review in respect of disciplinary action taken against the a government servant, cannot re-appreciate the evidence adduced to prove the charges in the disciplinary proceedings."

(vi) In *High Court of Judicature at Bombay v. Shashikant S. Patil* reported in 2000 (1) SCC 416, while considering the scope of Judicial Review of the decision of the disciplinary authority, in exercise of powers under Article 226 of the Constitution of India, the Hon'ble Apex Court, at Paragraph 16, held as follows:

"16. The Division Bench of the High Court seems to have approached the case as though it was an appeal against the order of administrative/disciplinary authority of the High Court. Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by consideration extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority (in this case the Disciplinary Committee of the High Court is the sole judge of the facts, if the enquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for

canvassing before the High Court in a Writ Petition filed under Article 226 of the Constitution."

(vii) In State of A.P. v. S.Sree Rama Rao reported in AIR 1963 SC 1723, considering the scope of the Judicial Review, the Hon'ble Supreme Court, held that,

"The High Court is not constituted in a proceeding under Article 226 of the Constitution as a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Whether there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a Writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence."

(viii) The above position has been again reiterated by the Hon'ble Supreme Court in Sub-Divisional Officer, Konch v. Maharaj Singh reported in 2003(9) SCC 191. At Paragraph 5 of the judgment, the Hon'ble Supreme Court held as follows,

"It has been stated by this Court on a number of occasion that the jurisdiction of the High Court under Article 226 is a supervisory one and not an appellate one, and as such the Court would not be justified in re-appreciating the evidence adduced in a disciplinary proceeding to alter the findings of the enquiring authority."

27. On the aspect, as to whether, a regular departmental enquiry is necessary, when the delinquent himself has admitted the charges, framed against him, this Court deems it fit to consider the following decisions,

(i) In Central Bank of India v. Karunamoy reported in AIR 1968 SC 266, the Hon'ble Supreme Court, held as follows:

".....But, if the workman admits. his guilt, to insist upon the management to let in evidence above the allegations, will, in our opinion, only be an empty formality. In such a case, it will be open to the management to examine the workman himself, even in the first instance, so as to enable him to offer any

explanation for his conduct, or to place before the management any circumstances which will go to mitigate the gravity of the offence....."

(ii) In H.P.RTC v. Hukam Chand reported in 2009 (11) SCC 222, at Paragraphs 12 and 13, the Hon'ble Supreme Court, held as follows:

"12. Compliance with principles of natural justice, either by holding an enquiry or by giving the employee an opportunity of hearing or showing cause, is necessary, where an employer proposes to punish an employee on a charge of misconduct which is denied, or when any term or condition of employment are proposed to be altered to the employee's disadvantage without his consent.

13. On the other hand, if there is an admission of misconduct, or if the employee pleads guilty in respect of the charge, or if the employee consents to the alteration of any terms and condition of service, or where the employee himself seeks the alteration in the conditions of service, there is no need for holding an enquiry or for giving an opportunity to the employee to be heard or show cause. Holding an employee guilty of a misconduct on admission, or altering the conditions of service with consent, without enquiry or opportunity to show cause, does not violate principles of natural justice."

28. Reverting to the facts on hand, from the materials on record, extracted supra, it could be deduced that the petitioner himself had voluntarily admitted that he had taken, three money orders, amounting to Rs.376/- each, on various dates, to the person, named Jamuna and another money order for Rs.1,500/-, shown as paid, on 04.08.2009 to one G.Santha. Investigation has been carried out, based on the complaints received from the payees, and that the petitioner has been imposed with a penalty of removal from service, based on his own admission, admitting guilt. He has only prayed leniency. On the aspect of misappropriation of public funds and as to whether, the delinquent requires a lighter penalty, let us consider few decisions,

(i) In Divisional Controller, KSRTC (NWKRTC) v. A.T.Mane reported in 2005 (3) SCC 254, on the quantum of punishment for misappropriation of funds, at Paragraphs 12 and 13, the Hon'ble Supreme Court held as follows:

"12. Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on

the contrary, it is the loss of confidence which is the primary factor to be taken into consideration. In our opinion, when a person is found guilty of misappropriating corporation's fund, there is nothing wrong in the corporation losing confidence or faith in such a person and awarding a punishment of dismissal.

13. This Court in the case of B.S. Hullikatti (supra) held in a similar circumstances that the act was either dishonest or was so grossly negligent that the respondent therein was not fit to be retained as a conductor. It also held that in such cases there is no place for generosity or misplaced sympathy on the part of the judicial forums and thereby interfere with the quantum of punishment."

(ii) In Divisional Controller, NEKRTC v. H.Amaresh reported in 2006 (6) SCC 187, the amount said to have been misappropriated was only Rs.360.95. Charges were held as proved. On the quantum of penalty, the Hon'ble Supreme Court held that,

"This Court in a catena of judgments held that the loss of confidence as the primary factor and not the amount of money mis-appropriated and that the sympathy or generosity cannot be a factor which is impermissible in law. When an employee is found guilty of pilferage or of mis-appropriating a Corporation's funds, there is nothing wrong in the Corporation losing confidence or faith in such an employee and awarding punishment of dismissal. In such cases, there is no place for generosity or misplaced sympathy on the part of the judicial forums and interfering therefore with the quantum of punishment. The judgment in Karnataka State Road Transport Corpn. Vs. B.S. Hullikatti, (2001) 2 SCC 574 was also relied on in this judgment among others. Examination of passengers of vehicle from whom the said sum was collected was also not essential. In our view, possession of the said excess sum of money on the part of the respondent, a fact proved, is itself a mis-conduct and hence the Labour Court and the learned Judges of the High Court misdirected themselves in insisting on the evidence of the passengers which is wholly not essential. This apart, the respondent did not have any explanation for having carried the said excess amount. This omission was sufficient to hold him guilty. This act was so grossly negligent that the respondent was not fit to be retained as a conductor because such action or inaction of his was bound to result in financial loss to the appellant irrespective of the quantum."

29. We have given our due consideration to the pleading of the writ petitioner, grounds raised and the material on record. Admission of the writ petitioner, before the authorities, have been extracted. From the above, we are of the view that the categorical and voluntary admission, before the authorities, cannot, at any stretch of imagination, be held that it was due to compulsion, as alleged, but only to record that it is only an afterthought, for the purpose of raising a factual dispute, before the Tribunal.

30. Going through the material on record, this Court is of the view that there is no illegality or irregularity in the impugned order of the Tribunal, warranting interference. Hence, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

skm
To

1. The Postmaster General,
Union of India,
Chennai City Region, Chennai 600 002.
2. The Superintendent of Post Offices,
Kanchipuram Division,
Kanchipuram 631 501.
3. The Assistant Superintendent of Posts (OD),
O/o. The Senior Superintendent of Post Offices,
Kanchipuram Division,
Kanchipuram 631 501 &
Adhoc Disciplinary Authority.
4. The Registrar,
Central Administrative Tribunal,
Madras High Court Campus, Chennai 600 104.

+1cc to M/S.R.Malaichamy, Advocate Sr.52447
+1cc to Mr.V.Balasubramanian, Advocate SR.52426

W.P.No.24376 of 2016

ug[co]
srg 06/10/2016