



W.P.No.32668 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.32668 of 2022

M. Kannan

...Petitioner

Vs.

1. The Registrar
Central Administrative Tribunal,
Chennai Bench,
Chennai 100 104
2. Union of India rep. by
The Postmaster General,
Central Region,
Tamilnadu Circle, Tiruchirapalli 620 001
3. The Director of Postal Services,
Central Region,
Tamilnadu Circle,
Thiruchirapalli 620 001
4. The Superintendent of Post Offices,
Karur Division, Karur 639 001

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ or direction or Order in the nature of Writ in



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particular a Writ of Certiorari after calling for the concerned records relating to the Order dated 21.06.2022 given in O.A. No.248 of 2015 passed by the first respondent and quash the same.

For Petitioner : Mr. S. Ramaswamyrajarajan

For R2 to R4 : Mr. K. Gunasekar, SPC

ORDER

(Order of the Court was delivered by R.HEMALATHA, J.)

The present Writ Petition is filed challenging the orders dated 21.06.2022 passed in O.A. No.248 of 2015 on the file of the Central Administrative Tribunal, Chennai Bench, Chennai 100 104.

2. The brief case of the petitioner is as under:

- i. The present petitioner was appointed as Gramin Dak Sevak Branch Post Master in Sembinaatham Post Office in the year 2001.
- ii. During his tenure in the office he was placed under suspension (put off duty) on 10.09.2011. Subsequently on 22.05.2012 he was issued a charge memo under Rule 10 of Department of Posts Gramin Dak Sevak (Conduct Engagement) Rules, 2011, which contained 3 Articles of charges against him.



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- iii. The I Article of charge was for the act of allowing a withdrawal of Rs.1,000/- in the S.B. account of one G.Kalaiselvi on 18.07.2011 without making an entry of withdrawal in her S.B. pass book and also not making the payment to her thus violating the provisions of Rules 133 and 134 of Rules for Branch offices and therefore was charged of having failed to maintain absolute integrity or devotion to duty as stipulated in Rule 21 of Department of Posts Gramin Dak Sevak (Conduct Engagement) Rules 2011.
- iv. The II Article of Charge was for accepting Rs.960/- on various dates from one M. Ponnusamy who had a RPLI Policy. The amount was the premium for the period June 2010 to August 2011 which was not credited into his policy account on the different dates received by him thereby contravening the provisions of Rule 124(C) of Rules for Branch offices and again was a failure to maintain absolute devotion to duty as stipulated in Rule 21 of Department of Posts Gramin Dak Sevak (Conduct Engagement) Rules 2011.
- v. The III Article of charge was for misappropriation of a deposit of Rs.3,146/- received from one Nagammal on 29.09.2010 but not deposited in her S.B. account thus violating Rule 131 of Rules for



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Branch offices and was construed as a failure to maintain absolute integrity and devotion to duty as required under Rule 21 of Department of Posts Gramin Dak Sevak (Conduct Engagement) Rules 2011.

- vi. There was a full-fledged inquiry on these charges and inquiry officer had submitted a report on 08.03.2013 holding all the charges as proved. The petitioner had given a representation on 25.02.2013 pointing out certain lacunae in conduct of proceedings, but the Disciplinary Authority, the 4th respondent in the present petition, went ahead passing the penalty of removal from service vide his orders dated 27.03.2013 without taking into consideration any of the objections raised by the petitioner.
- vii. Subsequently an appeal dated 08.04.2013 was submitted to the Appellate Authority which was rejected on 23.08.2013 and thereafter a review petition dated 19.09.2014 was also not considered in favour of the petitioner vide orders dated 14.10.2014 which upheld the penalty.



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viii. The aggrieved petitioner filed O.A. No.248/2015 before the Central Administrative Tribunal (CAT), Chennai Bench, which also dismissed the O.A. vide orders dated 21.06.2022.

The present petition is against this impugned order.

3. Heard Mr. S. Ramaswamyrajarajan, learned counsel appearing for the petitioner and Mr. K. Gunasekar, learned counsel appearing for the respondents 2 to 4.

4. The Central Administrative Tribunal, in its order was convinced that in all the 3 instances of misappropriation the petitioner did not have any valid defence to put forth and therefore could not hold him innocent. The act of allowing a withdrawal of Rs.1,000/- in the account of G. Kalaiselvi on 18.07.2011, the petitioner himself had admitted that the transaction was without the production of pass book but claimed that since there was a difference in the signature on the withdrawal form it ought to have been sent for forensic analysis. On the contrary the said Mrs.Kalaiselvi had given it in writing that she did not go to the Post Office on 18.07.2011 thereby



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disproving the defence theory. She was also not cross-examined on this aspect. This aspect that she not even visited the post office on 18-07-2011 was convincing to the Disciplinary Authority, Appellate Authority, Review Authority and Central Administrative Tribunal.

5. As regards the non credit of premium in the RPLI policy of M.Ponnusamy, the insured had deposed in the departmental enquiry that he had handed over the Premium Receipt Book to the petitioner in good faith and that not only the amount collected on different dates were not appropriated but also no receipts were given or prepared for the same. This was also accepted by the Disciplinary Authority, Appellate Authority, Review Authority and Central Administrative Tribunal.

6. Similarly, the receipt of Rs.3,146/- from one Mrs.Nagammal for credit to her SB Account was also held as proved. The contention of the petitioner was that there was no monetary loss to the postal department as the amount was made good by him later after the misappropriation was detected. This contention of the petitioner was not accepted by any of the authorities because such instances of misappropriation ultimately eroded the



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confidence reposed by public in post offices.

7. Thus on all the three counts the petitioner had no ground to defend his acts.

8. The reasoning given by the Central Administrative Tribunal was that it was not the monetary loss alone but the reputation loss for the Postal Department.

9. The learned counsel for the petitioner would contend that the aspect of disproportionate punishment was not taken into consideration. His further contention was the denial of natural justice when he was not afforded opportunity to get the signature verified by a handwriting expert as regards the 1st Article of charge. His another contention was that the second and third incidents remained unproved as no receipts were adduced by the complainants to substantiate that there was misappropriation. Moreover it was also contended that no written complaints were received from any of the alleged affected persons.



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10. Per contra it was argued by the learned counsel for the respondents that rural post offices enjoy high credibility and such acts of breach of trust by those on whom people repose confidence would lead to a dangerous situation of huge trust deficit. Moreover, it was also reiterated that the petitioner was found guilty in a proper departmental inquiry and the court had powers to interfere only where the process was vitiated or riddled with flaws. Therefore, it was contended that there was no merit in the case to be considered by this Court.

11. This court has gone through all the facts of the case and also the reasoning given by the various authorities. We extract some of the salient features of the report of the Presenting Officer in the Departmental Inquiry. It is pertinent to mention that as many as 36 exhibits and 6 witnesses were examined on behalf of the respondents before the conclusion of guilt.

A) Mrs.G.Kalaiselvi found that Rs1000/- was withdrawn from her SB account only when she came to the post office on 04-10-2011 when her withdrawal was initially passed and subsequently declined stating that Rs.1000/- was already withdrawn on 18-07-2011 without her knowledge. The new withdrawal dated 04-10-2011, the cancellation of warrant for payment and the error entry made by the then post master



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on 04-10-2011 were all produced in original to substantiate the misappropriation. There was also an admission of the guilt in writing by the petitioner. Copies of BO daily accounts, SB journal, BO accounts were all documentary evidence adduced by the respondents proving their case.

B) In the case of Mr. Ponnusamy, Rs.960/- which was the premium amount for 15 months from June 2010 to August 2011 for his RPLI policy @Rs.64/-per month was misappropriated by the petitioner. Claim application for the missing credits, confession letter of the petitioner dated 08-12-2011, credit of the amount on 19-01-2012 by the petitioner were all documentary evidence for his act.

C) As regards Mrs. Nagammal Rs.3146/-handed over to the petitioner by her on 29-09-2010 was not accounted for by him and not credited to the Government account. Claim application from Mrs. Nagammal, SB passbook, Statement of Mrs. Nagammal, copy of ledger card, BO SB journal, letter from the petitioner to permit him to credit Rs.3146/- under UCR, and the certificate of credit given by the Post Master, Kulithalai HO, were all documentary evidence produced by the respondents.



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Therefore the contention of the petitioner that the respondents relied only on oral evidence and not on documentary evidence is not acceptable. Overwhelming documentary evidence coupled with the oral evidence of the affected persons have clearly proved that the petitioner was guilty of misappropriation, suppression of SB deposit, RPLI premium, fraudulent SB withdrawal and improper maintenance of BO accounts.

12. Trust deficit is an incurable ailment. In rural areas the money saved may be smaller in quantum but the confidence reposed in Post Offices and Banks is high. The petitioner being in charge of the Post Office had not acted prudently. It is not the quantum of amount but the belittled image he has caused to the institution post office. Postmen were considered like messengers of God. They were considered one amongst the villagers. They used to deliver letters which used to carry good news and sad news. They used to carry money too. Their responsibility in terms of their mode of travel, promptness, reliability and hard work were always adored by people. With the advent of technology, dependence on them came down to a great extent but nevertheless when a Post Man himself commands so much



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respect, a Post Master who is in charge of the office ought to have acted in a more responsible manner earning respect for his integrity and devotion.

13. It is settled law that the findings recorded in a domestic inquiry, can be characterised as perverse only if it is shown that such a finding is not supported by any evidence on record or it is not based on the evidence adduced by the parties. In the decision in ***Union of India vs. P.Gunasekaran*** reported in **(2015) 2 SCC 610**, at paragraphs 12 and 13, it has been held as follows:

"Despite the well settled position, it is painfully disturbing to note that the High Court has acted as an Appellate Authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on charge No.1 was accepted by the Disciplinary Authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

- a) the enquiry is held by a competent authority;*
- b) the enquiry is held according to the procedure prescribed in that behalf;*



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- c) there is violation of the principles of natural justice in conducting the proceedings;*
- d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that*

In the instant case there is nothing to show that either principles of natural justice was violated or the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case. Pre-ponderance of probability is adequate to hold charges proved in departmental proceedings and there is no requirement to prove any charge beyond reasonable doubt.

14. In the circumstances, we do not find any reason to interfere with the orders dated 21.06.2022 passed in O.A. No.248 of 2015 on the file



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of the Central Administrative Tribunal, Chennai Bench, Chennai 100 104.

Accordingly, the Writ Petition is dismissed. No costs.

(V.M.V.,J.) (R.H.,J.)

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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