



IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: October 31, 2023

+ W.P.(C) 15010/2006

CHANDER HAS

..... Petitioner

Through: Mr. Amit Nahata, Adv.

versus

UOI & ANR.

..... Respondents

Through: Ms. Pratima N. Lakra, CGSC with
Ms. Vanya Bajaj, Adv. for R-1/UOI

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

V. KAMESWAR RAO, J

1. The challenge in this writ petition is to an order dated May 31, 2006, passed by the Central Administrative Tribunal Principal Bench, New Delhi ('Tribunal', for short) in Original Application No.1552/2005 ('OA', for short) whereby the Tribunal has dismissed the OA filed by the petitioner by holding in paragraphs 9 and 10 as under:

"9. There is no doubt about the fact that the charge of forgery has been found proved against the applicant. For a Government servant, at whatever level, he may be serving, such a charge of forgery is unpardonable and cannot be condoned. Post Offices in rural areas are an



important institution for the people who come from villages and rural areas to deposit money and for other transactions. It is also a known fact that many of these people are illiterate. It, therefore, becomes even more incumbent upon the employees serving in these areas to provide all help and assistance to persons who come for depositing money, particularly in Savings Account. Forging of signature virtually amounts to cheating the depositors.

10. In view of this matter, the punishment of dismissal cannot be said to be disproportionate to the charge. Both the impugned orders dated 29.6.2004 and 25.5.2005 (Annexure-A1 and A2) of the Disciplinary Authority and Appellate Authority respectively do not suffer from any illegality or infirmity. The OA is apparently devoid of merit and is liable to be dismissed.”

2. The petitioner, working as an Extra Departmental Branch Post Master and posted at Jakhala Branch was put off duty on August 4, 2001 on the basis of a complaint of one Sh. Rukamkesh. The same complaint became the subject matter of a charge sheet dated September 2, 2002 wherein the following Articles of Charge were framed against the petitioner:

“Article I

That said Sh. Chander Has while functioning as Postmaster of Rural Postal Service at its Branch Jakhala during the period 16.12.86 to 30.7.01 forged signature of Smt. Kamlesh W/o Sh. Randhir Singh, Viii. & P.O. on 16.8.2000 on the withdrawal form (SB-7) of the Saving Bank Account No. 186533 sent the form alongwith pass book to the Accounts Office at Guriani and after having sought approval for withdrawal on 18.8.2000 withdrew Rs.9,500/- by again forging signatures of the No holder on the withdrawal form (SB-7). Therefore said Sh. Chander Has GDS Branch Postmaster is alleged to have



committed gross violation of Rule 134(II) & (IV) of The Rural Postal Service Regulation VIth Edition of 2nd Print. Therefore said Sh. Chander Has GDSBP has committed violation of Rule 21 of 2001 of the Postal (Conduct & Service) Rules by his failure to maintain his devotion and dedication to the customer house.

Article-II

That said Sh. Chander Has while functioning as Postmaster of Rural Postal Service Branch at Jakhala was presented on 29.11.2000 a Pass Book of 5 yrs. F.D. No. 940462 by its holder Sh. Rukam Kesh S/o S. Chhote Lal, Vill. & P.O. Jakhala alongwith duly filled up (SB-7) form for final withdrawal. The approval for payment of the said account was issued by Accounts Office Guriani on 30.11.2000. On 30.11.2000 he drew an amount of Rs. 11,309/- from the said account after forging signatures of Chhote Lal, messenger and that of Sh. Tej Singh S/o Sh. Hira Singh. Therefore said Sh. Chander Has is alleged to have committed gross violation of Rule 145(3) (11) of the Post Office Regulation 2nd Print of VIth Edition.”

3. An inquiry was held by an Inquiry Officer, who submitted his report on December 22, 2003, wherein he has held that both the charges have been proved. The assessment / analysis of the Inquiry Officer on each of the charges are as under:

“(E) Assessment / Analysis

In Article of Charge I, it is charged that the sanction was obtained on the withdrawal form for Rs. 9500/- from the Saving Bank Account No. 156833 of Smt. Kamlesh wife of Shri Randhir Singh Village Jakhala which was filled up and forged signatures were made on it and after receipt of the sanction, the sanctioned amount was received by making forged signature on the SB-7 on 21-8-2000. Regarding this charge. ExS-6, Ex S-3, Ex S-8, Ex S-15 show that Shri Chander Has withdrew Rs. 9500/- from the



savings bank account No. 156833 on 21-8-00 by making forged signatures on the SB-7 (Ex S-6) and he forged the signature of the depositor. On perusal of the above referred documents, it is clearly proved that the amount was withdrawn by Sh Chander Has (SPS) himself by making forged signatures. As regards, the plea of Sh Chander Has put forth by him in his defence that from the statements of SW-2, SW-4 and SW-5, it is clearly proved that they used to make transactions in their accounts in Jakhala Post Office on their mutual faith on each other. This is wrong because the work of the Department and every employee/Officer here work under the rules. Therefore, the Rule is supreme and not to do Government work on mutual faith. SW-5 has also clearly stated about non receipt of the amount in his statements.

In Article of Charge II, this allegation is made through the presenting officer that the SB-7 duly filled up along with the passbook of 5 Year Time Deposit account No. 940468 of Jalchala Branch Post Office was received for final closure of the account from its depositor Sh Rukam Kesh son of Shri Chhote Lal. The sanction for the above cited account was issued by the Account Office Guriani on 30-11-2000. Shri Chander Has Branch Post Master Jakhala noted bogus name of Sh Chhote Lal as messenger and made forged signature of Sh Chhote Lal on the withdrawal form of the afore said account on 30-11-00 and Sh Chander Has had taken total payment of Rs. 11309/- himself by making forged signatures of Sh Chhote Lal and Shri Tej Singh son of Sh Hira Singhas witness. In regard to this charge, the charged official (Sh Chander Has) has stated in his defence that he used to do all the work on the faith of the depositors but this is wrong. Because on inspection of the EX S-8(a), Ex S-10, Ex S-11, Ex S-12, Ex S-13, Ex S-14, it is found that Shri Chander Has GDS BPM Jakhala has done all the work fraudulently relating to the withdrawal and the amount was withdrawn for himself without the permission of the depositor. This fact has been admitted by SW-2, SW-3, SW- 4 that their



signatures are forged ones.

(F) Findings by inquiry officer:- (Conclusion)

After perusal of the charges in the Article of Charge No. 1 and Article of Charge No. 2 of Annexure 1, all documents and State Witnesses and Defence witnesses and after making inquiry, I have come to the conclusion that both the articles of charges are correct and these are fully proved by the documents and the witnesses.”

4. The above reveals, the Inquiry Officer has held that the charges framed against the petitioner have been proved. Based on the inquiry report / record, the Disciplinary Authority dismissed the petitioner from service. The petitioner submitted his departmental appeal under the Rules vide letter dated September 6, 2004. The appeal was considered by the Appellate Authority, who dismissed the same by holding that the appeal is without any merit.
5. The submission of Mr. Amit Nahata, learned counsel for the petitioner is that the Tribunal has erred in passing the impugned order as it failed to appreciate that as per Article-I, it is alleged that the petitioner had withdrawn ₹9,500/- from the savings bank account of Smt. Kamlesh on August 21, 2000 after forging her signatures and the same amount has been pocketed by him, but there was no evidence before the Inquiry Officer to hold that the charges are proved.
6. This according to the counsel is more particularly relevant as it is an admitted position that the said money was re-invested by Smt. Kamlesh's father in a more lucrative venture.
7. That apart, the Tribunal while passing the impugned order failed to appreciate that the Inquiry Officer while giving his findings,



relied upon the most unreliable and self contradictory statements of the complainant, namely, Smt. Kamlesh and Shri Rakumkesh which were not corroborated by any other independent evidence so as to establish the guilt of the petitioner beyond reasonable doubt.

8. It is also his submission that the Tribunal has failed to appreciate that the order of dismissal pursuant to the report submitted by the Inquiry Officer was in violation of the principles of natural justice as no effective opportunity was provided to the petitioner to contest the case. In fact, additional evidence has been withheld from him which would have proved his innocence. He stated that the Tribunal has failed to appreciate that neither did the petitioner commit any fraud nor did the respondents / department suffer any loss and even as per the complaints, the amount withdrawn has been invested in a more lucrative investment and as such no loss has been caused to the complainants which clearly shows that the complaints made by the complainants were motivated for extraneous reasons.

9. That apart, the Tribunal has erred in overlooking the fact that while passing the dismissal order, the respondent No.4 has acted as a witness by giving his opinion as handwriting expert without subjecting himself to the due procedure of entering the witness box for cross examination. Even otherwise, such an act of the respondent No.4 for giving his own inputs in support of the case of the complainant is in violation of the principles of natural justice as no man can act as a judge in his own cause.

10. That apart, he submits that even the petitioner has not been given the following documents:



- (i) Copy of preliminary inquiry report of I.B. Meena, S.P.O., Rewari;
- (ii) Report sent by Sub Mastri to respondent No.4, in compliance report of the inspection report of Jakhala carried out on June 12, 1998;
- (iii) PGF Policy bonds in the names of Kamlesh and Rukamkesh
- (iv) Report of the hand writing expert;
- (v) Copy of the original complaint of Rukamesh.

11. That apart, he submits that the Inquiry Officer has not considered the representation made by the petitioner on the inquiry report while holding the charges proved against the petitioner resulting in a harsh penalty of dismissal from service. Even the Appellate Authority while considering the appeal filed by the petitioner has not considered the appeal in a proper perspective by considering all the grounds taken by the petitioner and has by an unreasoned order dismissed the same.

12. According to him, it is a settled position of law that if the conclusion of the Inquiry Officer is based on no evidence then the finding being perverse, the penalty which has been imposed based on such inquiry, need to be set aside.

13. On the other hand, Ms. Pratima N. Lakra, learned CGSC appearing for the respondents would justify the impugned order of the Tribunal by stating that the conduct of the petitioner which resulted in issuance of the charge sheet was very serious, inasmuch as he has forged the signature of the complainants and withdrew the amount from the saving bank accounts which according to her, has rightly resulted in



the dismissal of the petitioner from service more particularly based on the findings of the Inquiry Officer, who had proved the charges framed against the petitioner.

14. She submits that it a case of loss of confidence as an employee with such grave charges framed against him which have been proved cannot continue in a government service more particularly in the service in which he was working, wherein day to day working also include financial transactions. She submits that the scope of judicial review in respect of departmental proceedings is well settled. The Supreme Court has held that if there is a slightest of evidence then the Court / Tribunal would not interfere in the final conclusion arrived at by the Disciplinary Authority unless and until the penalty imposed is disproportionate to the charges framed / evidence which has come on record.

15. She also submits that the petitioner was given proper opportunity to defend himself. Hence, the plea of the petitioner that the inquiry is in violation of the principles of natural justice is not tenable.

16. According to her, the petitioner cannot prove that the punishment of dismissal based on the charges framed against the petitioner is disproportionate. She seeks the dismissal of the writ petition.

17. Having considered the rival submissions made by the learned counsel for the parties, the issue which arises for consideration is whether the Tribunal was justified in upholding the penalty of dismissal imposed on the petitioner vide orders dated June 29, 2004 and May 25, 2005 of the Disciplinary Authority and the Appellate Authority



respectively. The law with regard to judicial review in a case which involves disciplinary proceedings is well settled. The nature of evidence, required to prove the charges, is on a preponderance of probability as against the requirement to prove beyond reasonable doubt in a criminal case. Since the issue involved in the present case arises from the proceedings initiated against the petitioner pursuant to a charge sheet, it has to be seen whether on the principle of preponderance of probability the charges against the petitioner have been proved.

18. We find that the conclusion arrived at by the Tribunal is that the charge of forgery has been proved against the petitioner beyond any doubt which lead to the imposition of the penalty of dismissal from service on the petitioner. It is not the case of the petitioner that the charges of forgery framed against the petitioner have not been proved.

19. If that be so, we find that even other ground which is available to the petitioner that the penalty of dismissal is disproportionate is also unsustainable. This we say so, for the reason that the charge of forgery itself is serious misconduct that depict loss of confidence of the employer in the government servant to be retained in service. For the above conclusion, it is necessary to look into the findings arrived at by the Inquiry Officer on both the charges. The conclusion of the Inquiry Officer on both the charges has already been reproduced at paragraph 3 above.

20. The above reveals that based on Ex. S-6, Ex. S-3, Ex. S-8, Ex. S-15 on which reliance has been placed by the Inquiry Officer, it is proved; (i) that the amount of ₹9,500/- was withdrawn in terms of



withdrawal form SB-7 by forging the signature; and (ii) that the petitioner has withdrawn the amount of ₹9,500/- on August 21, 2000.

21. The plea of the petitioner in his defence that SW-2, SW-4, SW-5 used to make transactions in their accounts in Jakhala Post Office on their mutual faith was not accepted by the Inquiry Officer on the ground that the petitioner being a government servant was required to work under the rules and was not to discharge his duties on mutual faith.

22. Having said that, nothing has come on record to show that SW-2, SW-4 and SW-5 have signed the withdrawal form. Inference can be drawn from the very statement made by the petitioner that he along with other three witnesses used to make transactions in the accounts of the three witnesses at the Post Office on mutual faith.

23. Similarly, on charge No.2, it is revealed from Ex S-8, Ex S-9, Ex S-10, Ex S-11, Ex S-12, Ex S-13 and Ex S-14 that the petitioner has done all the work of withdrawal of the money and the said exhibits read with statements of SW-2, SW-4 and SW-5 show that they have not signed the forms for withdrawing the money or the receipt of the amount from the Post Office.

24. So, from the above it is clear that charge No.1 that the petitioner has forged the signature of Kamlesh and the charge No.2 that the petitioner has forged the signatures of Chhote Lal and Tej Singh, have been proved.

25. One of the pleas of the learned counsel for the petitioner is that the best way to prove whether the signatures have been forged or not, was to seek the expert opinion, which had not been done and as such



the charge cannot be said to have been proved.

26. No doubt, the record shows that the petitioner had asked for certain documents which included the report of the hand writing expert; however we find that the same was not relied upon in the charge sheet. In that sense, there is no violation of principles of natural justice. In any case, we find that all pleas of the petitioner with regard to the charges framed, the findings of the Inquiry Officer and the penalty imposed, have been dealt with by the Appellate Authority in a very detailed manner. The order is reproduced as under:

“4. The appeal has been considered carefully and dispassionately with records of the case. The appellant by his averment made in the appeal as has tried to bring home his point that the amount was actually withdrawn by the depositors from the respective accounts and its end use was investment in the PGF Ltd. by the depositors themselves. However, the evidence available on records does not suggest so. From perusal of evidence of SW2 read with Ex. S-1, SW-3, SW-4 read with Ex. S-2 and SW-5 read with Ex S-3 the only conclusion which can be drawn is that the amount was not withdrawn by the depositors and the same was withdrawn by the appellant by forging of signature. The appellant in his appeal has referred to the contradiction which according to the appellant have come on record during cross examination of SW-2 & SW-5. A perusal of the evidence in its totality reveals that there is no material contradiction to impeach the credibility of the state witnesses. The SW-5 during the cross examination has stated something in respect of Five year TD A/C No. 940439 which she once had in the post office and does not affect the testimony of SW-5 in respect of the withdrawal dated 21.8.2000 from her SB A/C No.186533. A copy of the letter from PGF Ltd. enclosed by the appellant in his appeal also, does not help the appellant to demolish the charges framed against him. The letter simply states about



the investment made in the PGF Ltd. on submission of photographs. In this connection the evidence of SW-2 is worth to be referred here wherein it has been stated that the appellant had demanded his photographs from his father, which were given. It is also stated by the SW-2 that there were no instructions given to the appellant for depositing the amount in the PGF Ltd. The appellant apparently obtained their photographs by dubious designs and the amount if any invested in the PGF Ltd. was maneuvered. Otherwise there was no cause or reason for the depositors to deny payment and their signature on the application of withdrawal.

5. The contention of the appellant that all the state witnesses have deposed against him out of vengeance as they all belong to the same village and the state witnesses were inimical towards him is figment of imagination of the appellant and is not supported by any evidence on record. There has to be some evidence even plausible to prove the averment now been made by the appellant in his appeal. In absence of any evidence the contention which has come by way of an after thought cannot be accepted. Similarly the argument put forth by the appellant that Sh. I.B. Meena the then ASPOs was having a grouse against him is also not supported by any evidence on record.

6. The appellant may be working since 16.12.86 without any complaint as contended. This however does not give the appellant the authority to breach the confidence posed in him as a public servant. The appellant in his appeal has pleaded that his defence evidence was not considered. I have perused the evidence of DW-1 & DW-2. The DW-1 during cross examination could not tell the place for which the registered letter was booked and also the date on which it was booked. The DW-1 was therefore willing to tell which was convenient to the appellant and was unable to tell the information on the points deposed by him during examination in chief. Similarly DW-2 is a resident of a village located 24 Km. away from Jakhala and is only occasional visitor to village Jakhala. It cannot be believed



that Shri Chhote Lal agreed for investment of the amount in the PGF Ltd. in the very first short meeting between Sh. Chhote Lal and DW-2 which they had at the Gurani Bus Stand. The evidence of DW-1 and DW-2 is therefore not credible and the disciplinary authority has very rightly dismissed the same.

7. There has also been no denial of reasonable opportunity as contended by the appellant. All the available and relevant documents were supplied to him. The IO has discussed the relevancy and availability of the documents requisitioned by the appellant in the order sheet No.5 dated 9.8.03 and No.6 dated 19.7.03 at length. The CDRF of the case has no relevance to the charges leveled against the appellant and the arguments put forth in this regard are irrelevant. Similarly, the expert opinion a copy of which was also supported to the appellant on 19.8.03 was not relied upon by the disciplinary authority while framing charges against him. The same was also not got proved by the appellant during oral enquiry. The charges against the appellant are therefore not diluted in any way.

8. To sum up the appellant has not come clean. The integrity of the appellant was not above board in this case. The appellant therefore does not deserve any sympathy. Hence the appeal sans merit and deserves to be rejected.

9. I, therefore, under the powers vested in me under Rule 18 of the GDS (Conduct & Employment) Rule 2001 do hereby 'REJECT' the appeal."

27. Even the plea of the petitioner that he had made complaints against Chhote Lal to the authorities that Chhote Lal used to forge signatures earlier is also without merit. We have seen the letter written by the petitioner to the Senior Superintendent of Post Offices, Gurgaon Division, Gurgaon, wherein he has only stated that Chhote Lal "*always signs wrongly*". Surely, the same cannot be construed to mean that Chhote Lal has forged the signatures of SW2 or SW5.



28. Insofar as the plea of the petitioner that the Inquiry Officer has wrongly rejected the statements given by the defence witness is concerned, we find that the same has also been dealt with by the Appellate Authority in paragraph 6 of the order which we have already reproduced above.

29. So, it must be held that, the Tribunal is justified in upholding the penalty of dismissal imposed on the petitioner. The writ petition is without any merit, the same is dismissed. No costs.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

OCTOBER 31, 2023/aky