

19.11.2024  
(D/L-4)  
Ct. No.4  
(Naba)

**W.P.C.T. 345 of 2013**

**Sri Manik Chandra Barman**  
**Vs.**  
**Union of India & Ors.**

Mr. S. M. Obaidullah,  
Mr. Samit Rudra  
... for the Petitioner.

Mr. Bhudeb Chatterjee  
... for the Respondents.

1. While posted as a Gramin Dak Sevak (GDS), the petitioner was issued with the charge memo on 15.05.2007. The proceedings arising therefrom have resulted in passing of an order for his removal from service vide Memo. No. F1-1/F/8/2006 dated 24/30.03.2010. The petitioner filed an appeal against the said order which appeal was not entertained by the appellate authority. He has thereafter approached the Tribunal by filing an Original Application (O.A.) which was numbered as O.A. 1901 of 2010 and finally disposed of by an order dated 20<sup>th</sup> March, 2013. The OA filed by the petitioner has been dismissed and the same is the subject matter of the present proceedings.
2. We find from the records that the allegations in the charge memo was that the petitioner has misappropriated amounts which were received by

way of money orders or amounts received for being deposited in the Savings A/c maintained by the public at large in the Post Office in question. The petitioner has taken a plea in the proceedings that he was mentally disturbed and because of such circumstances he could not make the entries in the records after having received the money. He has not disputed the fact that the misappropriation has occurred, but has tried to convince the authorities that the misappropriation was unintentional on account of his being mentally disturbed. In order to establish his *bona fides*, he has also submitted that subsequently the amounts have been deposited and therefore, no loss has been occasioned to the department. It is under such circumstances that he claims reconsideration of the punishment as according to him the punishment of removal from service in the circumstances is disproportionate to the charges and excessive.

3. The learned Counsel for the petitioner has placed reliance on decisions of the Hon'ble Apex Court in the case of ***V. Ramana Vs. A.P.SRTC & Ors.*** reported in ***(2005) 7 SCC 338 (paragraph 12)***, ***Collector Singh Vs. LML Limited, Kanpur*** reported in ***(2015) 2 SCC 410 (paragraph 14)*** and ***R.R. Parekh Vs. High Court of Gujarat & Anr.*** reported in ***(2016) 14 SCC 1 (paragraph 21)***.

4. The learned Counsel for the respondents on the other hand submits that due opportunity was granted to the petitioner in the proceedings conducted on the basis of the charge memo dated 15.05.2007. The petitioner has exhausted his remedy of appeal also. There being no procedural infirmity and the findings being based on material adduced in the course of the proceedings as also the specific admission of the petitioner, there was no scope for the Tribunal to interfere with the findings and the Tribunal has rightly dismissed the OA. Insofar as the prayer for reconsideration of quantum of punishment is concerned, he has submitted that the reports relied upon by the learned Counsel for the petitioner do not support the petitioner's claim as the facts are distinguishable and are inapplicable to facts and circumstances of the present case.
5. We have considered the rival submissions. Only issue arising for our consideration is whether the punishment is disproportionate, excessive and requires interference by this Court.
6. In support of his submission that the punishment is unsustainable, the learned Counsel for the petitioner has taken a plea of being mentally disturbed as also the fact that he has later

returned the amounts alleged to have been misappropriate.

7. Insofar as the first plea regarding the petitioner being mentally disturbed, he is unable to point out that any material in this regard was adduced by the petitioner before the enquiry or before the Administrative Tribunal. There is no medical assessment regarding his being mentally disturbed or material to support such claim. In absence of there being any material a bare plea in this regard cannot inure to the petitioner's benefit.
8. Insofar as the second plea taken by the petitioner regarding return of the amounts, we are equally unimpressed by such plea as the fact that he has returned the amounts at a later date when the proceedings were already initiated against him, also cannot be considered as a mitigating circumstance to any extent. The fact that the misappropriation has been committed is not denied or disputed. Subsequent repayment of the amount would not absolve the petitioner in any way of his responsibility for the misconduct committed while discharging function as a custodian of public money. It is by now a settled legal position that persons employed in Bank, Post Office or such organisations where they are required to deal with public money, are required to maintain a higher

degree of discipline, honesty, integrity and diligence, in the discharge of their duties and it is no defence to say that there is as loss as heeded by the Hon'ble Apex Court in its decision in the case of ***Damoh Panna Sagar Rural Regional Bank & Anr. Vs. Munna Lal Jain*** reported in **(2005) 10 SCC 84**. Lapse committed by such employee shakes the faith in the institution itself and therefore, claim for any leniency merely by submitting that at a subsequent stage the amount has been returned, is unsustainable.

9. Insofar as the Judgments relied upon by the learned Counsel for the petitioner, we find that the same are inapplicable to the facts and circumstances of this case. Insofar as Judgment in the case of ***V. Ramana*** (*supra*), we find that the Hon'ble Apex Court had found the punishment imposed by the authority to be shocking to the conscience. As considered above, we do not find the punishment in this case to be shocking to the conscience, especially since the petitioner was custodian of public money in the discharge of his duties and was required to maintain a very high degree of diligence, conduct and fairness while discharging his duties as such. The judgment in the case of ***Collector Singh*** (*supra*) is also based on a finding of the punishment being

disproportionate and therefore, the same also cannot be relied upon by the petitioner in view of the above finding.

10. In the case of ***R.R. Parekh*** (*supra*), we find that the Hon'ble Apex Court had considered an unblemished service record of the petitioner therein. Whereas in the present case the act of misappropriation against the petitioner are recurrent and repeated. For these reasons recorded above, we find that the petitioner cannot derive any sustenance from the reports cited.
11. We find no reason to interfere with the order passed by the Central Administrative Tribunal on 20.03.2013 in OA No. 1901 of 2010.
12. The Writ Petition is thus dismissed.
13. There shall be no order as to costs.
14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

**(Madhuresh Prasad, J.)**

**(Supratim Bhattacharya, J.)**