



Writ Petition No.22435 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
14.06.2024

PRONOUNCED ON
25.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Petition No.22435 of 2021

M.Parthasarathy

... Petitioner

Vs

1.Union of India,
Represented by the Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai,
Chennai – 600 002.

2.The Postmaster General,
Central Region (TN),
Tiruchirappalli – 620 001.

3.Director of Postal Services
& Appellate Authority (Additional Charge),
Director of Postal Services,
O/o. Postmaster General,
Central Region (TN),
Madurai – 625 002.

4.Director of Postal Services, (Vacant),
Central Region (TN),
Tiruchirappalli – 620 001.



Writ Petition No.22435 of 2021

5.The Senior Superintendent of Post Offices,
Thanjavur Division,
Thanjavur – 613 001.

6.The Central Administrative Tribunal,
Madras Bench,
Represented by its Registrar,
Chennai – 600 104.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, to call for the records of 6th respondent pertaining to its order which is made in OA/310/00457/2013 dated 17.09.2019 and quash the same, consequent to direct the respondents 1 to 5 to reinstate the petitioner into service as GDS BPM, Kattur PO with all service benefits and to pass such further order.

For Petitioner : Mr.R.Malaichamy

For RR1 to 5 : Mrs.P.J.Anitha
Central Government Standing Counsel

For R6 : Tribunal

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Writ Petition had been filed by the petitioner as having been aggrieved against the order of rejection of the original application filed by him challenging the order of punishment imposed against him pursuant to



Writ Petition No.22435 of 2021

the disciplinary proceedings initiated.

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2. Heard Mr.R.Malaichamy, learned counsel for the petitioner and Mrs.P.J.Anitha, learned Central Government Standing Counsel for the respondents 1 to 5.

3. The learned counsel for the Writ Petitioner would submit that while the petitioner was working as a Branch Postmaster at Kattur, a complaint had been lodged against him by one of the customers alleging that though he had not withdrawn a sum of Rs.40,000/-, by misusing the withdrawal slip, a sum of Rs.40,000 had been withdrawn from his account. Based upon the complaint, a charge memorandum had been issued against him on 24.07.2008 for which the petitioner had given a detailed reply denying the charges levelled against him. He would submit that an enquiry against the petitioner had been conducted and that during the enquiry, a Forensic Report had been relied upon which indicates that the two signatures in the withdrawal slips have been forged. In that context, he would submit that it is contrary to the charges that has been framed, wherein, it had been alleged that the customer had signed one signature on the payment side of the



Writ Petition No.22435 of 2021

withdrawal slip. It was already admitted by the customer/ complainant that he has affixed one signature in the withdrawal slip and therefore, the entire complaint was a false complaint only with an intention to malign the petitioner. In spite of his contentions, without considering the same that on the basis of the Enquiry Officer's Report, the petitioner had been inflicted with a punishment of disengagement from service.

4. An Appeal has been filed by the petitioner before the fourth respondent, who is the Appellate Authority. However, an order had been passed by the third respondent as if he was the Appellate Authority. Therefore, the order of the third respondent also suffers from the want of jurisdiction. He further submits that the complainant also has various bank accounts in different names and therefore, the statement in the complaint that the said customer ought to have been not believed for action being initiated against the petitioner. He would also submit that the Tribunal without advertng to these infirmities had upheld the order of punishment. Therefore, the same requires interference by this Court and prays to set aside the order of punishment imposed against the petitioner.



Writ Petition No.22435 of 2021

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5. Countering his arguments, Mrs.P.J.Anitha, learned Central Government Standing Counsel appearing on behalf of the respondents 1 to 5 would submit that after a thorough enquiry, the Enquiring Officer has given a detailed Report that the petitioner had involved in the delinquency of misappropriation of money for a sum of Rs.40,000/- belonging to the customer. She would vehemently contend that the petitioner holding a post where he had been dealing with public money ought to have been more careful. She would further submit that even if it is an admitted case that the customer had signed in one place of the withdrawal slip which requires two signatures of the customer, again it is for the petitioner to explain as to how the second signature of the customer had been affixed in the said withdrawal slip. She would further contend that the Forensic Examination had conclusively opined that both the signatures do not belong to the customer. Even assuming that one signature had been affixed by the customer, the petitioner was not duty bound to disburse the money which he claims. Therefore, it only creates a doubt that the petitioner would have



Writ Petition No.22435 of 2021

misappropriated the money as claimed by the complainant. She would further contend that in the case of the disciplinary proceedings probability of commission of delinquency alone is required to be ascertained and strict rule of proof as claimed by the petitioner is not available.

6. Further she would contend on the facts that as per the bank records, it was the petitioner who had opened the account of the complainant and therefore, he cannot make a pleading that the complainant is a bogus person having different identities. Even assuming that the customer was a bogus person, she would submit that it is an undisputed fact that Rs.40,000/- had been taken from the customer account by only forging the signatures of the customer. She would reiterate that even if one of the signatures is admitted by the customer, then the amount ought not to be disbursed. Further, she would submit that it is true that the fourth respondent was an Appellate Authority, since, the said post was vacant without any incumbent, the third respondent had been managing the affairs of the fourth respondent as incharge which includes the Appellate Authority power vested with the fourth respondent. She would further submit that the office of both the third and fourth respondents is the Director of the Postal Services of the



Writ Petition No.22435 of 2021

respective region and therefore, the petitioner cannot be heard to say that the third respondent did not have any jurisdiction to deal with the case. She would further submit that all the facts have been properly analysed and scrutinized before passing the order of punishment and that therefore, there can be no mercy shown upon the petitioner as he had misappropriated the funds of the public which he have been entrusted with. Therefore, she prays this Court to dismiss the Writ Petition.

7. We have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record.

8. The petitioner has been charged with a delinquency of misappropriation of funds for a sum of Rs 40,000/- of a customer, who had been subscriber of the Savings Bank Account at Kottur Post Office. It is an admitted case, that the Petitioner was working as a Branch Manager at that relevant point of time. The petitioner had not seriously disputed that it is not him who had opened the account for the customer on whose complaint the disciplinary proceedings were initiated. Even though, the petitioner would



Writ Petition No.22435 of 2021

try to disregard the Forensic Report by contending that the customer has signed in one place in the withdrawal slip which is contrary to the Forensic Report, which had opined that both the signatures are forged. We do not wish to entertain such arguments for the simple reasons that as per the banking procedure that only when the customer had signed in both the place, the amount would have been permitted to be withdrawn by the concerned customer.

9. Be that as it may, it is not the case of the petitioner that there was no such withdrawal permitted on that day or that the amount alleging the withdrawn by him was paid to the customer on the same day itself. There is no explanation forth coming from the petitioner, that the amount had not been paid on the said date itself. The customer had been informed that the respective money from Mayaladurai Branch, the amount would be paid to him. Further, we are of the considered opinion that exercising the powers under Article 226 of the Constitution, it is not our duty to reappreciate the facts to come to a conclusion that the delinquency had not been proved. As rightly pointed out by the learned counsel appearing for the respondent, it is the probability of the delinquency that alone has to be ascertained and in the



Writ Petition No.22435 of 2021

present case, the Enquiry Officer after due enquiry had submitted a Report that the charges have been proved and the Disciplinary Authority after show cause to the petitioner of the findings of the Enquiry Officer had also come to a conclusion that the charges have been proved and the same had been affirmed by the Appellate Authority and also the Tribunal. We do not wish to reappreciate the evidence to come to a different conclusion.

10. The petitioner had raised the jurisdiction of the Appellate Authority. The petitioner had not disputed the fact that the office of the fourth respondent had been vacant and had been managed by the third respondent as incharge. It is also not disputed by the petitioner that the offices of the third and fourth respondents are of the same cadre but belonging to a different region. It is also not disputed that the office of the third respondent was incharge of the office of the fourth respondent.

11. When that being so, the third respondent could also exercise the powers of the Appellate Authority vested with the fourth respondent. Hence, the contention of the petitioner that the third respondent did not have jurisdiction to hear the Appeal would have to fall.



Writ Petition No.22435 of 2021

WEB COPY

12. For the foregoing reasons, we do not find any infirmity or error in the order passed by the Tribunal which warrants interference by this Court. In fine, this Writ Petition fails and is accordingly, dismissed. However, there shall be no order as to costs.

(D.K.K.,J.) (K.B., J.)
25.06.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
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11/13



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Writ Petition No.22435 of 2021

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A Pre-delivery order made in
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