

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BECH
Original Application No. 342/2015**

Dated the 29th day of September, 2021

CORAM:

Hon'ble Shri Jayesh V Bhairavia, Member (J)

Hon'ble Dr. A. K. Dubey, Member (A)



Ahmedabad Bench

1. Shri F.M. Shaikh
Age 55 years
Son of Shri Mustafa Rasul Shaikh
Ex-Sub Postmaster,
GIPCL Sub Post-Office,
Dist. Surat – 394 110.
Residing at Mota Miya Mangrol,
Taq.: Mangrol, Dist. Surat – 394 440.

... Applicant

(By Advocate Shri A D Vankar)

V/s.

The Union of India & Others
Notice to be served through

- 1) Secretary to the Govt. of India,
Ministry of Communication & I.T.,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi – 110 001.
- 2) Chief Postmaster General,
Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3) Postmaster General,
Vadodara Region, Vadodara – 390 002.
- 4) Director Postal Services
O/o the Postmaster General,
Vadodara Region, Vadodara – 390 002.
- 5) Sr. Supdt. of Post-offices,
Surat Division, Surat – 395 007.

... Respondents

(By Advocate Ms. Roopal R Patel)

ORDER (ORAL)**Per: Hon'ble Dr. A. K. Dubey, Member (A)****Ahmedabad Bench**

1. Aggrieved by the departmental charge memorandum dated 18.01.2010 (Annex. A/1), order dated 25.01.2011 (Annex. A/2) of his dismissal from service, order dated 10.05.2012 (Annex. A/3) rejecting his appeal and order dated 16.06.2015 (Annex. A/4), rejecting his petition against dismissal, the applicant has preferred this OA seeking quashment and setting aside of these impugned orders (Annex. A/1 to A/4) and his reinstatement into service.
2. Applicant's case in brief is as under: -
 - 2.1 Applicant had joined as Extra Departmental Agent (EDA), now called Gramin Dak Sevak (GDS), on 05.11.1981. He was promoted as Postman through a departmental examination on 01.12.1988. After his success at the departmental examination, he was posted as Postal Assistant on 27.06.1997. He was posted as Sub Postmaster GIPCL Township Sub Post-office on 02.05.2005. On 13.03.2009, he was placed under suspension. Then vide memorandum dated 18.01.2010 (Annex. A/1) inquiry under Rule 14 of CCS (CCA) Rules, 1965 was initiated on the charges framed therein.
 - 2.2 Vide his letter dated 08.02.2010, the applicant responded to the memo denying the charges and pointing out that one Shri D.M. Mukardamwala (Retired ASP) would be his defence assistant, he requested for a hearing. The enquiry was proceeded with; the inquiry report dated 29.11.2010 (Annex. A/6) found him guilty on all counts of charges pursuant where to, the disciplinary authority ordered his dismissal from Government service. Later, when the applicant filed his appeal on 28.02.2011 that too was rejected vide memo dated 10.05.2012

(Annex. A/3). Thereafter, the applicant filed a revision petition dated 21.08.2012 (Annex. A/7) which was rejected too, vide memo dated 16.06.2015 (Annex. A/4).



Ahmedabad Bench

3. Respondents have filed their reply contending that the charges levelled against the applicant impugned on integrity as they related to not crediting full amounts to Government account after receipts and temporary/permanent misappropriation, while the applicant was working as Sub postmaster in GIPCL Township Post office. Respondents contend that out of permanent misappropriation amount of Rs. 16,02,767/-, only Rs. 9,59,164/- could be recovered, leaving 6,43,603/- plus normal and penal defrauded amount yet to be recovered. It was in view of this misconduct that disciplinary proceeding under Rule 14 of CCS (CCA) Rules, 1965 were instituted, which culminated the dismissal order.

- 3.1 It is averred by the respondents that the applicant had denied the charges whereupon IO and PO were appointed and formal enquiry for major penalty was conducted. Copy of the inquiry report was given to the applicant, vide memo dated 30.10.2010. All the orders are based on documentary evidence, deposition of witnesses and relevant records adduced during the course of inquiry. It is contended that the seriousness of not crediting the amounts to the Government account after endorsing the receipt of amounts in the passbook, and misappropriation of various descriptions cannot be ignored since it impinges on the integrity of the Government servant.
- 3.2 Respondents contend that there are no procedural or legal irregularities or infirmities in the conduct of enquiry and the principle of natural justice was ensured in course of conduct of enquiry. The candidate was given reasonable opportunity to defend himself and present his side.

4. The applicant submitted his rejoinder reiterating his ground.
5. Heard the counsel for both parties. Counsel for the applicant stated that certain defence documents were not given due to which he could not cross examine the witnesses. He also contended that the appeal and revision were routinely dismissed without any valid reason.
6. Counsel for the respondent submitted that there were no procedural or legal lacunae or omission or irregularity in conduct of inquiry. The inquiry was held as per rules and in full compliance with the provisions under rules. The documents that were relied upon in the charge memo were given to the applicant and hence, the contention that documents were not given was not tenable. That the prescribed inquiry procedure duly was followed in clear for the inquiry report itself.
7. The records and the material before us suggest that the inquiry was conducted in accordance with the provision under CCS (CCA) Rules, 1965. The applicant was given necessary documents as well as opportunity to defend himself. These documents clearly point out that there is no procedural irregularity or omission in the conduct of inquiry. Further, the charges that are proved are serious in nature and significantly constitute the misconduct which according to the respondents, have been taken into account. It has also been averred by the counsel for the respondents that the quantum of punishment, particularly when permanent misappropriation was established and its amount could not be fully recovered, is not disproportionately heavy. Nor is it a case of violation of principle of natural justice. Under this factual matrix, we do not find any justification of granting the relief sought. The OA lacks merit and deserves to be dismissed.



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In view of the above discussions the OA stands dismissed. MA if any pending also stands disposed of. No order as to cost.

(A K Dubey)
Member(A)

(Jayesh V Bhairavia)
Member(J)

PA



Ahmedabad Bench