(2001) 02 KL CK 0013

In the High Court Of Kerala

Case No : O.P. No. 10396 of 2000

P.V. Dalan Nair, Branch Postmaster — APPELLANT

Vs

The Superintendent of Post Offices and Others — RESPONDENT

Date of Decision : 20-02-2001

Acts Referred:

Citation : (2001) 1 KLJ 605

Hon'ble Judges : K.S. Radhakrishnan, J;G. Sasidharan, J

Bench : Division Bench

Advocate : M.C. Nambiar, T. Rethi and K.B. Dayal, for the Appellant; K. Ramakumar, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, J.—This writ petition is preferred against the order in O. A. No. 905 of 1996 of the Central Administrative Tribunal, Ernakulam Bench.

2. Short facts which are necessary for the disposal of the case are as follows : Petitioner was working as Branch Postmaster at Vilakkode. While so, he was put off duty with effect from 27.9.1993 pending disciplinary proceedings. Charge against the petitioner was that while he was functioning as Extra Departmental Branch Postmaster he failed to account for Saving Bank deposit of Rs. 525/- on 1.9.1993 accepted by him on that day from one V.R. Gopalakurup. Same was credited in the Post Office account only on 25.9.1993. This, according to the Department, is in violation of Rule 131 of the Rules for Branch Offices and thus failed to maintain absolute integrity and devotion to duty in contravention of Rule 17 of the Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964. Detailed enquiry was conducted on the basis of charge-sheet. Earlier there was delay in completing the disciplinary proceedings which led the petitioner filing application before the Tribunal which was disposed of by the Tribunal directing the authorities to pass orders within a specified time. Petitioner has got a case that disciplinary proceedings were not finalised within the time. Consequently they were bound to re-instate the petitioner. Same was not done.

This, according to the petitioner, is an illegality. Finally disciplinary proceedings were completed and the petitioner''s service was terminated. It is against the said order he preferred O.A. No. 905 of 1996 before the Tribunal. After perusing the files Tribunal found no reason to interfere with the punishment awarded and the application was dismissed.

3. When the matter came up for hearing today, learned Counsel appearing for the petitioner Sri M.C. Nambiar submitted that petitioner had an unblemished record of service and consequently punishment imposed is not in any way commensurate with the guilt, if any, established. Counsel also relied on the oral evidence of Gopalakurup who was the depositor. The depositor had stated in his deposition that the amount paid by him was correctly entered in the passbook. Counsel for the Department submitted that detailed enquiry was conducted by the Department on the basis of records maintained in the normal course of business. Counsel further submitted that this Court shall not interfere with the quantum of punishment which depends upon factual materials.

4. We are not inclined to accept the contention of the petitioner that he has not committed any illegality warranting disciplinary proceedings. Even though in the deposition of the depositor it is stated that the amount was recorded in the pass book on the same date Bank account shows that amount was credited only on 25.9.1993 while the amount was received on 1.9.1993. In other words, amount was kept by him unauthorisedly from 1.9.1993 to 25.9.1993. This is a misconduct warranting disciplinary proceedings. Since petitioner was acting as Branch Postmaster and dealing with Savings Bank account utmost integrity and honesty is required. Apex Court dealing with the case of a bank employee in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik 1996 S.C.C. 1194 held as follows:

......the very disciplinary of an organisation and more particularly, a bank is dependent upon each of its employees and officers acting and operating within their allotted sphere. Acting beyond one''s authority is by itself a breach of discipline and a breach of Regulation 3. It constitutes misconduct within the meaning of Regulation 24. No further proof of loss is really necessary though as a matter of fact in this case there are findings that several advances and overdrawals allowed by the respondent; beyond his authority have become sticky and irrecoverable. Just because, similar acts have fetched some profit huge profit, as the High Court characterises if they are no less blameworthy. It is wrong to characterise them as errors of judgment.

The Apex Court again in Union Bank of India v. Vishwa Mohan 1998 S.C.C. 1129, held as follows :

"It needs to be emphasised that in the banking business absolute devotion, diligence, integrity and honesty needs to he preserved by every bank employee and in particular the bank officer. If this is not observed, the confidence of the public/depositors would be impaired. It is for this reason, we are of the opinion that the High Court had committed an error while setting aside the order of dismissal of the respondent on the ground of prejudice on account of non-furnishing of the enquiry report/findings to him."

Applying the above principles laid down by the apex court in the aforesaid decisions, we are of the view that keeping the money unauthorisedly by the petitioner from 1.9.1993 to 25.9.1993 without crediting the same in the Bank''s account is ascrious misconduct. In the afore-mentioned angle and in view of the principles laid down by the Apex Court we find no reason to interfere with the punishment imposed on the petitioner. We are of the view that if the petitioner feels that a lesser punishment should have been imposed on him, it is for him to take up the matter with the employer and it is for the employer to consider whether a lesser punishment could be imposed depending upon the past records of the employee with which we express no opinion. The original petition lacks merits and it is accordingly dismissed.