

(2011) 02 DEL CK 0432

In the Delhi High Court

Case No : Writ Petition (Civil) No. 1082 of 2011

Union of India (UOI) and Others

APPELLANT

Vs

Charan Singh

RESPONDENT

Date of Decision : 21-02-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 02 DEL CK 0432

Hon'ble Judges : Dipak Misra, C.J; Sanjiv Khanna, J

Bench : Division Bench

Advocate : Rajinder Nischal, for the Appellant;

Final Decision : Dismissed

Judgement

1. By order dated 31st January, 2006, it was held that the Respondent Charan Singh had displayed carelessness and negligence in discharge of his official duties and Rs. 31,500/- was directed to be recovered from him in 15 monthly installments commencing from the month of February, 2006.

2. The Respondent filed a revision. The revisionary authority vide order dated 30th January, 2010, dismissed the revision petition and at the same time enhanced the recovery of penalty to Rs. 1,23,860/- and directed that the remaining amount of Rs. 92,360/- should be recovered in 20 equal monthly installments with immediate effect.

3. The said orders were made subject matter of challenge in OA No. 841/2010 which has been allowed by the impugned order dated 30th September, 2010. Central Administrative Tribunal (Tribunal, for short) has held that it was incumbent upon the Petitioners to prove that the Respondent was charged with the responsibility of performing an act and he did not act in the said manner which led to the loss to the state-exchequer. The proceedings resulting in imposition of penalty must have some semblance of an enquiry.

4. The aforesaid penalty has been imposed on account of encashment of lost/

stolen National Saving Certificates (NSC, for short) and Kisan Vikas Patras (KV Ps, for short) at Himmatpuri post office. The Respondent is not the person who had made the payment and was not posted at Himmatpuri Post Office. The Respondent was posted at Krishna Nagar, Head Post Office and was discharging duties in the Compilation Branch. The payments had already been made when the papers/ documents with regard to encashment of the NS Cs/KV Ps were received in this office. The factum that the Respondent was not responsible for making the payments is not disputed or denied. In the order dated 30th January, 2010 passed by the Revisionary Authority, it has been observed as under:

It is also a fact that Shri Charan Singh is not the principal offender. In so far he did not consult the Negative List or list of lost/stolen certificate, he is responsible on grounds of serious contributory negligence. In light of this, the representation does not bring any point that is not already known.

5. It is also recorded in the order dated 30.1.2010 that a criminal case has been filed and the accused were facing prosecution. The Respondent is not being prosecuted and is not an accused.

6. The stand of the Respondent was that the negative list i.e. the instructions dated 8th November, 2000 of the Department of Post, Dak Bhawan, New Delhi, circulated vide letter dated 21st November, 2000 were not available with him while he was working as a compilation clerk in Krishna Nagar, Head Post Office. It was submitted that the compilation work did not require checking of each and every discharge certificate and negative list of lost/stolen certificates was not handed over to him for checking of the genuineness of the discharged certificates. The aforesaid position is not disputed or denied either in the order dated 31st January, 2006 or in the revisionary order dated 30th January, 2010. It is, however, stated that each and every official was duty bound to keep his knowledge updated. This to our mind is not sufficient to hold that the Respondent was guilty of negligence which had led to the loss in form of payments. If the negative list was not circulated, it was lapse on the part of the concerned officer, who was responsible for circulating the list and bringing it to the knowledge and informing the concerned officers. The Respondent could not have presumed that there was negative list. There would be a lapse only if the official concerned, i.e. the Respondent, was aware and had knowledge that there was a negative list but he did not verify. There is no such allegation or finding.

7. Keeping in view the finding of the Tribunal, and the facts noted above, we are not inclined to issue notice in the present case in exercise of jurisdiction under Article 226 of the Constitution. The writ petition is accordingly dismissed in limine.