

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
WP(C)(CAT) No. 03 of 2020

1. The Union of India, represented by the Secretary to the Government of India, Department of Post, Ministry of Communication, North Block, New Delhi-110001.
2. The Chief Post Master General, N.E. Circle, Shillong, Meghalaya-793001.
3. The Director of Postal Services, Agartala-799001, Tripura.
4. The Assistant Superintendent of Post Office, Agartala South Sub-Division, (via Post Master, Agartala Head Post Office Agartala 799001)

.....Petitioners

Versus

1. Sri Bhaba Sankar Chakraborty, son of late Paresh Chakraborty, Ex. Gramin Dak Seva Branch Post Master, Siddhi Ashram Branch Post Office, Under A.D. Nagar Sub Post Office, Tripura-799003.

.....Respondent

BEFORE
HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE ARINDAM LODH

For Petitioner(s)	:	Mr. B. Majumder, CGC.
For Respondent(s)	:	Mr. K. C. Bhattacharjee, Advocate.
Date of hearing and deliver of judgment	:	31.08.2022
Whether fit for reporting	:	NO

JUDGMENT & ORDER

Heard Mr. B. Majumder, learned C.G.C. appearing for the petitioners. Also heard Mr. K. C. Bhattacharjee, learned counsel appearing for the respondent.

[2] This petition has been filed under Article-226 of the Constitution of India for enforcement of the Constitutional and Fundamental right of the petitioners guaranteed under Articles-14 and 21 of the Constitution of India and their legal and statutory right guaranteed under Gramin Dak Sevak (Conduct and Employment) Rules, 2001 and under Article-227 of the Constitution of India praying for setting aside/quashing the impugned judgment and order dated 02.08.2018 passed by the Central Administrative Tribunal, Gauhati Bench rendering in case No. Original Application No.041/00243/2016 for rendering substantive and consignable justice to the petitioners.

[3] The brief facts of the present case are that the respondent-employee Sri Bhaba Sankar Chakraborty while working as Gramin Dak Sevak Branch, Post Master (in GDS BMP), Siddhi Ashram Post Office in account with A.D. Nagar during the period from 03.11.1993 to 06.11.2002 had un-authorizedly allowed Sri Parimal Sengupta, Extra Departmental Delivery Agent (Ex. GDS MD) Siddhi Ashram GDS BO to collector S. B. R. D. deposits on different dates by making entries in the pass book without making any correspondence entries in the relevant office records and without crediting the amount to Government account violating provision of law. Therefore, irregularities and negligence on the part of the respondent led to misappropriation of Govt. money and loss to the department.

[4] A disciplinary proceeding was initiated against the respondent-employee. Inquiry officer submitted report with effect that the charges against the respondent were not proved. But, the disciplinary authority disagreed with it and on 04.11.2011 orders of removal from service are passed. Aggrieved by the order of removal dated 04.11.2011,

the respondent preferred a departmental appeal and the same stood dismissed.

[5] Thereafter, the respondent preferred a review petition before the departmental authority, while it is pending the respondent approached before the CAT, Gauhati with OA 110 of 2015 and the same has been disposed on 07.04.2015 directing the authority to dispose the review petition within three months. In pursuance of the same, on 28.07.2015 the reviewing authority rejected the review petition. Aggrieved by the said order the respondent again approached the CAT, Gauhati Bench vide No. OA 040/00243/2016. On 02.08.2018 the CAT rejected the penalty order of removal directing the authority to impose lesser punishment.

[6] Being aggrieved with the order dated 02.08.2018 passed by the CAT the petitioners i.e. the Union of India has preferred the present writ petition.

[7] Learned counsel appearing for the petitioner has submitted that the Tribunal has erred in law as well in facts involved thereto and acted with a closed mind with the sole purpose of giving relief to the respondent as prayed in his original application. The Tribunal has misconstrued of law that it is immaterial as to whether pecuniary loss has been committed or not. The basic principle requires for a Govt. servant is to maintain dignity of his/her job with fair manner and not avoid misconduct in duty. The Tribunal ought to have considered monetary loss caused by the respondent-employee to Govt./petitioner.

[8] The counsel for respondent-employee argued that the respondent-employee faced the criminal proceedings before the concerned Court for a period of four year and at last has been successfully acquitted. He also faced departmental enquiry for almost 20 years. The punishment

imposed removal from service is disproportionate and prayed to dismiss the writ petition. He also submitted tht the person who involved in the charge namely, Mr. Parimal Sengupta Ex. GDSMD to perform SB/RD transaction, has been removed from service for financial misappropriation. The respondent-employee herein is innocent.

[9] Admittedly, there has been inordinate delay in conducting departmental proceedings for around 20 years, despite Govt. of India issuing time and again for completing the disciplinary proceedings in 6 months. The criminal case against the respondent ended in acquittal. One Mr. Parimal Sengupta who is said to be involved in misappropriation has been removed from service. The charges leveled against the respondent in view of the above would attract major misconduct or minor misconduct, falls for our consideration. The punishment for removal from service is disproportionate or not, also needs to be considered. In this background, the orders passed by the Tribunal giving a finding that the punishment imposed is excessive and cannot treated as major misconduct. The counsel for the petitioner has not made any argument on these issues to differ from the findings of the Tribunal. Thus, the order of CAT dated 02.08.2018 needs to be confirmed and upheld. Accordingly, the same is upheld.

[10] In view of above analysis, we are of the opinion that the petitioner has failed to bring him under the charges leveled against him and thus, failed to prove the case against the respondent. As such, the present petition stands dismissed.

[11] As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

JUDGE