

**Central Administrative Tribunal
Madras Bench**

OA/310/00801/2014

Dated the 24th day of February Two Thousand Twenty

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

C.Kuppusamy,
S/o M.Chinniah,
Kottur, Periyakari Post,
Devakottai via,
Sivaganga District,
PIN 630 311.

.. Applicant

By Advocate **M/s.R.Malaichamy**

Vs.

1. Union of India rep by the
Superintendent of Post Offices,
Karaikudi Division,
Karaikudi 630003.
2. Superintendent of Post Offices,
Ramanathapuram Division,
Ramanathapuram 623 501.
3. Assistant Superintendent of Post Offices(HQ)&
Ad-hoc Disciplinary authority,
O/o the Superintendent of Post Offices,
Ramanathapuram Division,
Ramanathapuram 623 501.

By Advocate **Mr.G.Dhamodaran**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OA is filed seeking the following relief(s):-

“To call for the records of the 3rd respondent pertaining to his memo No.ADA/1/2007 dated 19.11.2007 and the order of punishment of removal from engagement made in Memo No.ASP/ADA/1/DLGS dated 05.11.2013 and the order of 1st respondent made in Memo No.B2/Rule-10/CK dated 08.4.2014 and set aside the same, consequent to

direct the respondents to reinstate the applicant into service with all service benefits, and;

To pass further or other orders as this Tribunal may deem fit and proper in the circumstances of the case.”

2. In short, the applicant's case is that he was working as GDS(MD) at Periyakarai SO. Whiles, the 3rd respondent had issued a Charge Memo under Rule 10 of the GDS (C&E) Rules, 2011 alleging that the applicant was unauthorisedly absent from duty.

3. An Inquiry Officer (IO) was appointed and the applicant denied the charges levelled against him. The Assistant Superintendent of Post Offices (ASP) (HQ), Karaikudi Division was appointed as Ad-hoc Disciplinary Authority (DA) and later he was changed and Assistant Superintendent of Post Offices, Ramanathapuram Division (3rd respondent herein) was appointed as DA.

4. According to the applicant, he became absent due to an accident occurred to him. He lost consciousness and wandered at many places for about 2 years till he

recovered his memory. His absence was not wilful nor wanton. The 1st respondent thereafter permitted him to join duty at ASPO's, devakottai Sub-Division as per order dt. 06.2.09. The IO had found him liable for unauthorised absence. He filed his objection to the Inquiry Report. But it was not considered by the DA (R3) and he was ordered for removal from service. He filed Appeal against the said order on 17.1.14. But the Appeal was rejected on 08.4.14.

5. According to the counsel for the applicant, the Charge Memo was issued by an authority who is subordinate to the authority in another Division. The order of appointing the 3rd respondent as ad-hoc DA is illegal. The absence of the applicant was not wilful or wanton.

6. The counsel for the respondents on the other hand denied the allegations made. According to them, the applicant has not produced any document to prove the accidents and the consequences he suffered. An enquiry was conducted in the locality by Mail Overseer, Shanmugham and it was revealed that the applicant was abroad in Malasia. The Memos issued to the applicant was returned stating that he left India. He was absent for a period of 2 years 9 months and 5 days. A substitute had to be engaged to do the work during this period.

7. According to them, as per DGP&T letter No.151/5/81 dt. 16.12.81 and ad-hoc DA can be appointed before issuing of Charge Memo. The enquiry was conducted after observing all formalities and the applicant was also given opportunity to defend

his case. After filing of Inquiry Report, the Applicant was permitted to file a detailed representation on 28.9.2013. After considering all aspects, R3 had passed an order of removal of the applicant from GDS engagement with immediate effect on 05.11.13.

8. We have heard the counsels appearing on both sides and perused the pleadings and documents produced. On a perusal of the pleadings and records, we find that there is no illegality in the appointment of ad-hoc DA as it is permitted under Rule 5 of GDS (C&E) Rules and as per DGP&T letter No.151/5/81 dt. 16.12.81. Here the ad-hoc DA was appointed prior to the issue of Charge Memo. The IO had given all opportunities to the applicant to defend his case, and we could not find any irregularity or violation of natural justice in the conduct of enquiry. The counsel for the applicant had invited our attention to the decision of CAT, Chennai bench in *Dr.Puzhankara Kamalam v. Indian Council of Agricultural research [reported in (1989) 9 ATC 26]* wherein also the challenge was the action taken against the unauthorised absence of the said applicant. We had gone through the facts and circumstances of that case and find that the said decision is not applicable to the present applicant. The applicant had failed to produce any evidence to show the reasons for his unauthorised absence and it was not wilful or wanton.

9. The applicant was unauthorisedly absent for a period of more than 2 years and it is a clear misconduct on the part of the applicant. No mitigating circumstances have come out in favour of him. The punishment imposed is not shockingly

disproportionate. So, there is no merit in this OA.

10. In the result, the OA will stand dismissed. No costs.

(T.Jacob)
Member(A)

24.02.2020

(P.Madhavan)
Member(J)

/G/