

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.1757/2013

Dated the 1st day of June, 2020

PRESENT

Hon'ble Mr.P.Madhavan, Judicial Member

Hon'ble Mr.T.Jacob, Administrative Member

P.S.Pattabiraman,
Postal Assistant,
Alwarthirunagar PO,
Chennai 600 087.

... Applicant

By Advocate Mr.P.R.Satyanarayanan

Vs

1.The Union of India,
Rep., by Director of Postal Services
O/o Postmaster General,
Chennai City Region,
Chennai 600 002.

2.Senior Superintendent of Post Offices,
Chennai City South Division,
Chennai 600 017.

... Respondents

By Advocate Dr.G.Krishnamurthy

(Order: Pronounced by Hon'ble Mr.P.Madhavan, Member(J))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“To call for, examine the record relating to the proceedings No.B5/PM/R.14/PSP dated 29.10.2010 passed by the second respondent and confirmed by the proceedings No.VIG/APP/2-65/2010/CCR dated 18.07.2013 passed by the first respondent and quash them as arbitrary and illegal.”

2. The facts leading to the case can be summarised as follows:

The respondent no.2 had placed the applicant under suspension w.e.f. 23-12-98 in connection with the leakage of arithmetic question paper for Post-man examination held on 8-05-1994.

3. The CBI conducted investigation and they could not find sufficient evidence and filed a report dropping the charges on 30-06-95. The respondents revoked suspension on 30-06-95 and re-instated him into service on 8-09-95. He was promoted to postal assistant on 24-4-1997. But his suspension period was not regularised.

4. On 16-02-06, R2 had issued a charge sheet against him for misconduct stating that he failed to report the alleged leakage of paper. He filed OA432/06 before this bench and this bench quashed the said charge memo on the ground of inordinate delay. *The respondents filed WP no. 9798/08 and Hon'ble Madras high court set aside the order of the tribunal by order dt.12-09-2007.* The inquiry was continued and the IO

had filed his report on 14-6-2010 holding that charge was not proved. But the disciplinary authority R2 disagreed with the findings and imposed a penalty of "reduction of pay" by order dt.29-10-10. The applicant filed appeal against the penalty imposed but that was also rejected without considering the valid points raised by him.

5. Hence, the applicant filed this OA. The applicant alleges arbitrariness, illegality and perversity in the order passed by the DA as well as the appellate authority.

6. The respondents filed a detailed reply denying the allegations.

7. According to them, the applicant while working as postman at Adayar SO, was found involved in the clandestine circulation of arithmetic question paper prepared for the postman examination. This came out when one candidate by name Sampath was caught red-handed at Tambaram. The candidate Sampath was found carrying a solved answer paper in the handwriting of the applicant.

8. The investigation revealed that the applicant had helped the candidates who fraudulently obtained question paper by giving answers. He was placed under suspension from 23-12-94. Since the CBI has not charge-sheeted the case, the suspension was revoked on all the officials including the applicant. There occurred some delay in getting the opinion from law ministry and hence disciplinary proceedings was delayed. The documents were with the CBI and there occurred some delay in getting the necessary documents and only after getting the same Rule 14 charge

memo was issued. Since the IO report was disagreed by DA, punishment was imposed. The appeal filed by the applicant was carefully considered by R1 and it was rejected by a speaking order dt. 2-9-10. The DA had relied upon the evidence of one Sri Devendran(cw2)that he had handed over the question paper received, to the applicant for getting it solved. The applicant has failed to cross examine this witness. According to the respondents, applicant has also not disputed the handwriting in solved answers marked as SE 1. According to the respondents, there is no basis for the contentions of the applicant.

9. The main argument raised by the counsel for the applicant is that there is absolutely no evidence against the applicant and the finding of the DA and appellate authority is perverse and illegal. On the other hand the counsel for the respondents would contend that the evidence is sufficient as far as a departmental inquiry is concerned and there is nothing perverse or illegal. *The counsel for the applicant cited the cases of Phulbari tea estate v workmen(AIR 1959 SC1111), Marimuthu v the General manager, SBI and another reported in (2010)5 MLJ 925, Rajkishore Pandey v Reva Sidhi Gramin bank, SR.Thiwari v U.O.I and another(2013)6 SCC 602, Roop Singh Negi v Punjab National bank and others(2009)3 SCC 570 in support of his argument.* We have gone through the witness statements produced as annexure A16,17,18,19,20,21,22 and also gone through the enquiry report annexure A24.

10. The respondents had examined all the material witnesses and the applicant was given opportunity to cross-examine them. He was also given opportunity to explain the circumstances.

11. In this case, the respondents had examined the makers of statements and applicant was given opportunity to cross examine them. He has raised objections and IO had recorded the objections. This is not a case where statements given during investigation was merely marked without examining the person concerned. It is true that Crpc.161 statements has no value in a criminal case except to contradict the witness. This principle has no application in a departmental proceedings where the maker of statement is also examined as witness in person.

12. We have carefully gone through the findings of the DA and we find that the findings arrived was not based on conjunctures or surmises. It is based on the testimony of witnesses and we find no merit in the arguments raised. It cannot be considered as perverse also. In view of the above findings, we hold that the decision cited by the counsels for applicants has no applicability in the facts and circumstances in this case. The punishment imposed is also not shockingly disproportionate with the misconduct alleged.

13. Hence, we hold that the applicant has failed to substantiate the arguments put forward by him to interfere with the order passed by the DA as well as the appellate authority.

14. **There is no perversity, illegality, or violation of principles of natural justice in this case. Hence, there is no merit in the OA.**
15. **Hence, OA will stand dismissed. No costs.**

**(T.JACOB)
MEMBER (A)**

01.06.2020

**(P.MADHAVAN)
MEMBER(J)**

M.T.