

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

GUWAHATI

Original Application No.040/00166 of 2015

Date of Order: This the Day of November 2017.

**HON'BLE MOHD HALEEM KHAN, ADMINISTRATIVE MEMBER****HON'BLE MR.S.N.TERDAL, JUDICIAL MEMBER**

Sri Renu Bala Malakar  
Gramin Dak Sevak Mail Career,  
Boko-Agchia BO,  
O/O Inspector of Post Offices,  
Bijaynagar Sub Division, Chayagaon,  
District-Kamrup, Assam

Applicant

Mr.H.K.Das,

-Vs-

1. Union of India  
Represented by the Secretary to the  
Department of Posts,  
Government of India, Ministry of Communication, Information  
and Technology, New Delhi-1.
2. The Chief Postmaster General,  
Assam Circle, Meghdoot Bhawan,  
Panbazar, Guwahati-1
3. The Director of Postl Services (HQ),  
Meghdoot Bhawan,  
Panbazar, Guwahati-1.
4. The Senior Superintendent of Post Offices,  
Guwahati Divisioin, Guwahati, Pin-781001. ...Respondents

By Advocate Mr.A.Chakraborty, Addl.C.G.S.C.

**ORDER**

**Per Mr.S.N.Terdal, Judicial Member:**

This Original Application has been filed seeking relief of setting aside of the Memorandum No.F4-32/05-06 dated 04.09.2013 and the order No.Vig/Review/GH Dn/2013 dated 10.04.2014 and seeking refund of money deposited by the Applicant with consequential benefits.

2. The facts of the case are that the Applicant was appointed as Gramin Dak Sevak Branch Postmaster (GDSBPM) at Jahirpur BO via Aggumi S.O. from 03.03.1991. While serving as GDS,BPM at Jahipur the Applicant was placed under put-off duty on 31.03.2008. Subsequently, a Memorandum of Charge was served on her on 19.5.2011, intending to hold Disciplinary Proceedings against her. An Enquiry Officer was appointed. The Enquiry Officer submitted his report on 28.05.2013 holding that charges were partly proved. The Disciplinary Authority after considering the Enquiry Report and the representation of the

Applicant made thereon imposed penalty of debarring the Applicant from appearing in the recruitment examination and for being considered for recruitment for a period of not exceeding 3(three) years and treated the period of “put off” duty as “non-duty” for all purposes.

The said order is extracted below:-

“I, Dr.Alice K.Vizo, Sr.Suptd. of Post Offices, Guwahati Division, Guwahati-in exercise of power conferred under Rule-10 of GDS (Conduct and Engagement) Rules, 2011 do hereby order that Smt.Renu Malakar, GDS BPM (under put-off duty), Hahipur B.O. is debarred from appearing in the recruitment examination for the post of Multi-Tasking staff Group “C”and or Postman and/or from being considered for recruitment as Postal Assistant Sorting Assistants for a period not exceeding 3(three) years from the date of this order. I further order that the period of her put off duty from 28.03.2008 to till date be treated as “Non Duty ”for all purposes.

(Dr.Alice K.Vizo)  
Sr.Suptd. of Post  
Offices Guwahati Division:  
Guwahati-1”

3. The Applicant did not file appeal against the said penalty imposed by the Disciplinary Authority. In furtherance of the said penalty order,

she was re-designated and engaged as GDS as per Office Order No.A-I/Renu Malakar, dated 09/09/2013 which is reproduced below:-

“In pursuance to SSPO/GH memo No.-F4 32/05-06 Dated 04/09/13 Smti Renu Malakar, EX GDS BPM Jahirpur BO in a/c with Aggumi S.O. is hereby re-designated and engaged as GDS MD Choudhurykhat BO in a/c with Bamunigaon S.O. with immediate effect.”

The consequential order were passed by the Respondents vide orders dated 04.11.2013. Subsequently on 10.12.2013 the Respondent No.3 exercising his Revisional Authority issued the following Show Cause Notice which is extracted below:-

“Department of Post: India  
Office of the Chief Postmaster General: Assam Circle Meghdoott Bhawan 4<sup>th</sup> Floor Guwahati:781001.  
No: Vig/Review G.II Dn/2013 Dated 10<sup>th</sup> December 2013.

WHEREAS Smti Renu Malakar, GDSBPM, Jahirpur BO in account with Aggumi, S.O was punished with debarment from appearing in the Recruitment examination for the post of MTS Group C and Postman for a period of 3 (three) years with immediate effect vide memo No.F4-32/05-06 dated 04.09.13 imposed and issued by the Disciplinary authority and Sr.Superintendent of Posts, Guwahati Division, Guwahati under Rule 10 of GDS (Conduct and Engagement) Rules, 2011.

WHEREA the charged official did not prefer appeal against the order imposed by the Disciplinary Authority.

AND WHEREAS the undersigned being the revising authority in terms of Rule 19 (ii) of GDS (Conduct and Engagement) Rules 2011 in the case after revision of the said punishment order proposes to revise and modify the punishment of debarment from appearing in the Recruitment examination for the post of MTS Group C and Postman for a period of 3(three) years with immediate effect already imposed upon her by the Disciplinary Authority vide memo No.F4-32/05-06 dated 04.09.13 and to impose punishment of Removal from engagement.

NOW THEREFORE the Smti Renu Malakar ,GDSBPM, Jaipur BO in account with Aggumi SO is hereby given an opportunity of making such representation as she may wish to make against the enhanced penalty proposed. Any representation which she may wish to make against the enhanced penalty proposed, will be considered by the undersigned. Such representation, if any, should be made in writing and submitted so as to reach the undersigned not later than 10(ten) days from the date of receipt of this memorandum by Smti Renu Malakar, GDSBPM. Jahirpur BO in account with Aggumi SO under Guwahati University HO.

(Riju Gangly)  
Director of Postal Services  
(HQ) Assam Circle, Guwahati."

The Applicant submitted representation with respect to the above show cause notice. After considering the representation the Director of

Postal Services passed the order dated 10.4.2014 imposing the penalty of "Removal from Engagement" with immediate effect.

4. Heard Mr.H.K.Das, learned counsel on behalf of the Applicant and Mr.A.Chakraborty, learned Addl.C.G.S.C. for the Respondents , perused the pleadings and records produced by both sides.

5. The Applicant has challenged the order dated 4.9.2013 passed by the Disciplinary Authority, in this O.A., on the ground that the Enquiry Officer and the Disciplinary Authority have not considered the deposition of defence witnesses namely, DW-1 and DW-2 and she further submitted that in view of the evidence on record , she is not primarily involved in alleged fraud and that as per the evidence one Shri Mathuram Das,GDS DA of Jahirpur B.O. went from door to door of account holders and collected amount in the name of BPM and shown the amount in respective passbooks but did not credit the amount in their accounts. But as the higher authority advised the Applicant that she must take full responsibility of loss caused as she was in- charge of the office, though Shri Mathuram Das, GDS DA, was directly responsible. On the basis of the said advice though she was not responsible, she deposited the faulted money to save her job.

6. Be that as it may, admittedly the Applicant has not filed any appeal against the order passed by the Disciplinary Authority. As such she cannot challenge the same in this O.A.

7. The Revisional Authority in its order dated 10.12.2013 extracted above, intending to revise the order passed by the Disciplinary Authority has not given any reason whatsoever, for exercising the Revisional power. In the said order dated 10.12.2013 though the Applicant was given 10 days time for making representation against the enhancement of penalty, the Revisional Authority has not recorded as to why the order passed by the Disciplinary Authority requires to be revised, neither he has stated any short-comings in the order passed by the Disciplinary Authority, nor he has elaborated on any evidence available on record to justify that the order passed by the Disciplinary Authority is not just and proper. As a result, as submitted by the counsel for the Applicant, the Applicant was deprived of making effective representation against the said proposal of enhancement of penalty. The counsel for the Applicant in support of his submission, produced a judgment of Hon'ble Allahabad High Court passed in the case of Ratan Singh, Vs. State of U.P. and others reported in 2010 (9)

ADJ 82.

Paragraph 43 of the said judgment is extracted below:-

“43. The said order does not indicate as to what was that evidence on which a contrary view has been taken by the authorities so as to vitiate the action and form an opinion otherwise. No specific evidence, instance or material has been discussed by the State Government and, therefore, the reason given is in the shape of a conclusion. In the opinion of the Court, every conclusion should be supported by cogent reasons that may support the order and the decision making process. The order dated 24<sup>th</sup> March, 2008 makes general comments without specifying the exact reason for having taken a different view. The Enquiry Officer in his 35 pages report has rendered his analysis. If the same was contrary to the evidence on record, the same could have been spelled out in the order dated 24<sup>th</sup> March, 2008. If the State Government was proceeding to take a different view in the matter namely disagreeing with the conclusion of the Enquiry Officer and the disciplinary authority then reasons for the same ought to have been specified and the same cannot be substituted by general comments.”

8. In view of the facts of the case and law laid-down by the Hon'ble Allahabad High Court, extracted above, the impugned order dated 10.4.2014 which is based on the show cause notice dated 10.12.2013, which is not supported by any cogent reason requires to be set aside. As such, the said impugned order bearing No. Vig/Review/GH Dn/2013 dated 10.04.2014 and the show cause notice

no.Vig/Review/GH Dn/2013 dated 10.12.2013 are set aside with all consequential benefits as per rules.

9. In view of the above, the Original Application is partly allowed.

No order as to costs.

(S.N.TERDAL)  
JUDICIAL MEMBER

( MOHD HALEEM KHAN)  
ADMINISTRATIVE MEMBER

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