

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.20/006/2020

Hyderabad, this the 10th day of January, 2020



Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

Bhumala Apparao, Aged 57 years,
S/o. late Pottidora, Sub-Postmaster,
Samalkot Rs, SO-533440,
East Godavari District, Andhra Pradesh.

... Applicant

(By Advocate Mr. K. Siva Reddy)

Vs.

1. Union of India, Rep. by Secretary,
Department of Posts, Dak Bhawan,
Sansad Marg,
New Delhi – 110 001.
2. The Chief Postmaster General,
Andhra Pradesh Postal Circle,
Vijayawada – 520 013.
3. Superintendent of Post Offices,
Kakinada Postal Division,
Kakinada – 533 001.

... Respondents

(By Advocates: Mr. B. Siva Sankar, Addl. CGSC)

ORDER (ORAL)
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA is filed challenging the validity of the impugned Charge Memorandum dated 5.7.2019.



3. Brief facts that require to be adumbrated are that the applicant, who is about to retire in 2 ½ years, while officiating as Assistant Post Master in the respondents organisation, was issued a Charge Memo under Rule 16 of CCS (CCA) Rules 1965 on 5.7.2019, in regard to supervisory failure dating back to nearly 5 years in regard to cross-checking NREGS payments with online Web Portal, LOTs and other vouchers, with a view to recover nearly Rs.5.00 lakhs on the grounds of contributory negligence. Earlier to this charge memo, one another charge memo was issued on 26.10.2018 with the same set of charges, which when effectively replied, was dropped on 24.1.2019. Applicant sought documents to reply to the later charge sheet, but the respondents having not conceded to the said request, has led to filing of the present OA.

4. The contentions of the applicant are that the dropping of a charge memo after being replied and issuing a fresh one on the same set of charges would tantamount to double jeopardy. Issuing a charge memo pertaining to lapses dating back to nearly 5 years is not tenable under law on grounds of delay, as observed by the Hon'ble Apex Court in ***P.V. Mahadevan v Tamil Nadu Housing Board*** in CA 4901/2005, decided on 8.8.2005; ***State of Madhya Pradesh v Bani Singh*** [AIR 1990 SC 1308] and ***State of***



Punjab v Chaman Lal Goyal [(1995) SCC 570 Para 9]. The integrity of the official is not in question and that the respondents are trying to recover a huge amount under the garb of supervisory failure. As per Rules, inquiry has to be completed in 9 months, which has lapsed considering the date of issue of the first charge sheet. Respondents have not supplied the relevant documents and hence, principles of Natural justice and observations of the Hon'ble Apex Court directions in **Bhupinder Singh v Union of India** (1987) 2 SCC 234; **State of A.P. v Sree Rama Rao**, AIR 1963 SC 1723, **Capt. M. Paul Anthony v Bharath Gold Mines**, 1999 (2) SCALE 363; and **Anil Kumar v Presiding Officer**, AIR 1985 SC 1121, have not been adhered to. The Charge memo is vague and not legible to enable the applicant to present an effective defence.

5. Heard both the counsel and perused the pleadings on record. The case relates to disciplinary action against the applicant and hence, has to be heard by the Bench. However, with mutual consent of both the counsel, the case has been heard at length at the admission stage, with arguments for and against furthered by either side, given the case contours pertaining to the processing of the issue under dispute.

6. Applicant, at the first instance, was issued charge memo under Rule 16 of CCS (CCA) Rules 1965, on 26.10.2018 for contributory negligence in not verifying the NREGS transactions with the relevant documents and entries available in the online Web Portal designed for the purpose. Applicant represented on 9.11.2018 seeking a full-fledged inquiry under

Rule 16(1)(b) of CCS (CCA) Rules 1965, which was conceded to by issuing a fresh charge sheet on 5.7.2019. Therefore, the respondents did not drop the charges as claimed by the applicant, but issued a fresh charge sheet under Rule 16 (1)(b) of the CCS (CCA) Rules in order to facilitate a full-fledged inquiry, as sought by the applicant. On receipt of the second charge sheet dated 5.7.2019, applicant pointed out certain inadequacies like biometric payment schedule being cited in the charge memo, but did not furnish the same; BO/SO daily accounts written by hand are illegible, etc and sought documents, which are legible and mark the documents as per serial given in Annexure –III. Learned Counsel for the applicant alleges that respondents have not responded to the request made and that since applicant's retirement is close by, the delay in disposal of the disciplinary action will lead to complications in regard to release of the pension. Applicant has cited the judgments of the Hon'ble Apex Court as at para 4 in support of his contentions.

II) It requires no reiteration that the aspect fundamental to issue of a charge sheet is that the documents listed to frame the charges are to be furnished to the charged employee in order to enable him/her to mount an effective defence. In the instant case, respondents, in order to facilitate a full-fledged inquiry, have dropped the charge sheet issued under Rule 16 and issued a fresh one under Rule 16 (1) (b) of CCS (CCA) Rules 1965. However, the core aspect of a charge memo is to provide the documents, which sustain the charges. It is reported that the documents asked for by the applicant on 4.9.2019 have not been supplied till date. The applicant is nearing his retirement and hence, the anxiety of the collateral consequences





on pension if not decided in time. The prospect of recovery of nearly Rs.5.0 lakhs is also hanging as a Damocles sword on the applicant, which deserves serious consideration. The respondents need to act decisively either way, but not gingerly proceed with disciplinary cases. The lapses occurred in 2014-15 and issuing a charge sheet in 2019 after a lapse of 5 years and that too, for contributory negligence, does not speak well of the respondents in regard to their efficacy in dealing with disciplinary cases. The charge sheet, it appears, has been issued by those concerned in haste after a long lull, to avoid being questioned on later date for not proceeding against the applicant. The officers superior to the disciplinary authority are expected to review the disciplinary cases and take effective measures so that they are disposed in a reasonable period of time. As is gathered from the Ld. Counsel for the applicant, the respondents do monitor the inquiries to complete them in 90 days. In the present case, it has not even commenced because of reasons of inadequacies in processing the case in tune with law and rules on the subject. Usually inquiry has to be completed in 6 months time as per the instructions of the Central Vigilance Commission dated 23.5.2000 (Annexure A-8), so that the issue can be given a quietus in a given time frame.

When the case came up for hearing on 10.1.2020, Ld. Counsel for the respondents has submitted written instructions received from the respondents. On perusal, it is seen that the instructions are silent as to whether the documents sought for would be furnished. It must be remembered that when an employee is being proceeded on disciplinary grounds, he will not be able to concentrate on his work. The charge sheet is

a constant source of worry and thereby, productivity suffers. It is beneficial for the Organisation as well as the employees if disciplinary cases are decided at the earliest, so that employees are free of the anxiety of the uncertain future either way and thereby, get back to work with an unburdened mind. If the charges are dropped, the employee is relieved and if a penalty is imposed, he will either reconcile with the infliction or proceed with the appeal/petition being aware of the state he is in, so that he is free to concentrate on his work and thereby the efficiency of Organisation is not marred.

III) Therefore, after hearing both the counsel, respondents are directed to supply the documents listed in the charge sheet, within a period of 2 weeks from the date of receipt of this order and in case if they encounter any difficulty in doing so, it is left open to the respondents to drop the case or to proceed against the applicant by issuing a corrigendum to the charge sheet issued or to issue a fresh charge sheet as deemed fit, in accordance with rules and law on the subject, within a period of 8 weeks from the date of receipt of this order. It requires no reiteration that the respondents will bear in mind the observations of the Hon'ble Apex Court in the cases cited by the applicant, while proceeding against him, if they decide so, after carefully studying the case in its entirety.

IV) With the above directions, the OA is disposed of, with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)
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