

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

Original Application No.200/00217/2013

Jabalpur, this Tuesday, the 23rd day of June, 2020

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Varun Kumar Kacchwaha, S/o Shri Purushottam Lal Kachhawaha Aged about 40 years, R/o Subhash Ward, Mandla 481995 (M.P.) **-Applicant**

(By Advocate –**Shri Vijay Tripathi**)

V e r s u s

1. Union of India, Through its Secretary, Ministry of Communication & IT Department of Posts, Dak Bhawan, Sansad Marg, New Delhi 110001

2. Chief Post Master General Madhya Pradesh Circle, Hoshangabad Road Bhopal 462012 (M.P.)

3. Director Postal Services, Head Quarter, Hoshangabad Road, Bhopal 462012 (M.P.)

4. Superintendent Post Office Balaghat Division Balaghat (M.P.) 481001

- Respondents

(By Advocate –**Shri S.K. Mishra**)

(Date of reserving the order:-01.07.2019)



ORDER

By Ramesh Singh Thakur, JM:-



By way of this Original Application the applicant is challenging the order dated 07.04.2011 (Annexure A/1) whereby he was removed from service. The applicant is also challenging the order dated 01.08.2012 (Annexure A/2) whereby the appeal of the applicant has been rejected by the appellate authority without application of mind.

2. The applicant has prayed for the following reliefs:-

“8(i) Summon the entire relevant record from the possession of respondents for its kind perusal;

8(ii) Set aside the order dated 07.04.2011 (Annexure A/1) and order dated 01.08.2012 (Annexure A/2)

8(iii) Direct the respondents to reinstate the applicant with all consequential benefits as if no impugned orders are passed.

8(iv) Any other order/orders, direction/directions may also be passed.

8(v) Award cost of the litigation to the applicant.”



3. The facts narrated by the applicant are that the applicant was initially appointed on 02.04.2002 as Grameen Dak Sevak Branch, Post Master Branch Post Office, Khatola Account Office, Bhua Bichhia Mandla. Vide order dated 06.01.2009 Assistant Superintendent Post Office Sub Division Mandla attached the applicant with Branch Post Office Anjani as Branch Post Master. On the basis of false complaint the applicant was put off from service by the Assistant Superintendent Postal Mandla Sub Division vide order dated 13.10.2009. A charge sheet dated 23.07.2010 (Annexure A/5) was served to the applicant wherein it has been alleged that without taking prior permission from the competent authority the applicant has kept his Headquarter at Bhua Bichhia and he has also not kept his residence at Anajani and performed his duties as per his whims and fancy. It has also been alleged that the applicant has misbehaved with the account holders and did not disburse the amount of Mahatama Gandhi Rojgar Yojna timely. The applicant has submitted his representation on 06.08.2011



(Annexure A/6) denying all the allegations in toto. Thereafter the respondent-department has appointed inquiry officer to conduct the departmental enquiry. During the departmental enquiry the applicant has accepted the allegations of the charge sheet. The inquiry officer submitted the inquiry report to disciplinary authority on 17.03.2011. The disciplinary authority vide order dated 07.04.2011 (Annexure A/1) removed the applicant from service. The applicant submitted his appeal on 26.04.2011 (Annexure A/7). The same was rejected vide order dated 01.08.2012 (Annexure A/2) by the appellate authority. Hence this Original Application.

4. Respondents in their reply have submitted in the preliminary submission that the applicant while working as GDS, Branch Post Master Khatola under Account Office Bhua Bichhia, Mandla from 02.04.2002 to 06.01.2009 was temporarily attached with the Branch Post Office Anjani on administrative exigency due to sudden demise of Shri Chain Singh who was working as GDS BPM Anjani vide memo dated 08.01.2009. On compliant that the applicant is



operating the Branch Office Anjani from Bhua Bichhia and not from Branch office Anjani without approval of superior officers, resultantly the account holders under Mahatma Gandhi Rojgar Guarantee Scheme, who were not getting the payments in time and the applicant was misbehaving with them, the applicant was kept 'put off' vide memo dated 13.10.2009 and he was issued a charge sheet memo dated 23.07.2010 under Rule 10 of GDS (Conduct and Employment) Rules, 2001 providing him an opportunity to submit representation thereof. The applicant had submitted representation dated 06.08.2010. Inquiry officer and presenting officers were appointed to conduct detailed inquiry. The applicant before the inquiry officer has accepted charges unconditionally. He was served with a copy of inquiry report providing opportunity to submit representation if any but he did not submit any representation thereof. After considering the nature of allegation and inquiry officer report the disciplinary authority vide order dated 07.04.2011 passed penalty of removal from employment. The appeal preferred

by the applicant was also considered and rejected. Respondents submitted that the applicant has accepted the charges unconditionally. It is submitted by the respondents that ample opportunity was given to the applicant and there is no illegality in the order passed by the disciplinary authority and appellate authority.



5. Heard the learned counsel for both the parties and have also perused the documents annexed with the O.A.

6. From the pleadings it is an admitted fact that the applicant was appointed on 02.04.2002 as Grameen Dak Sevak Branch, Post Master Branch Post Office, Khatola Account Office, Bhua Bichhia Mandla and thereafter vide order dated 06.01.2009 the applicant was attached with Branch Post Office Anjani as Branch Post Master. A charge sheet dated 23.07.2010 (Annexure A/5) was served to the applicant with allegations that the applicant has misbehaved with the account holders and did not disburse the amount of Mahatama Gandhi Rojgar Yojna timely. The applicant has submitted his



representation on 06.08.2011 (Annexure A/6) denying all the allegations. Inquiry officer was appointed to conduct the departmental enquiry. During the departmental enquiry the applicant has accepted the allegations of the charge sheet. Inquiry officer submitted the inquiry report to disciplinary authority and passed the order dated 07.04.2011 (Annexure A/1) of removal from service. The applicant submitted his appeal and the same was rejected by the appellate authority.

7. From the reply of the respondent-department, it is crystal clear that the applicant while working as GDS, Branch Post Master Khatola under Account Office Bhua Bichhia, Mandla from 02.04.2002 to 06.01.2009 was temporarily attached with the Branch Post Office Anjani on administrative exigency due to sudden demise of Shri Chain Singh who was working as GDS BPM Anjani. The allegation against the applicant is that he is operating the Branch Office Anjani from Bhua Bichhia and not from Branch office Anjani without approval of superior officers, resultantly the account holders



under Mahatma Gandhi Rojgar Guarantee Scheme, who were not getting the payments in time and the applicant was misbehaving with them, the applicant was kept 'put off' vide memo dated 13.10.2009 and was issued a charge sheet memo dated 23.07.2010 under Rule 10 of GDS (Conduct and Employment) Rules, 2001.

8. The main contention on behalf of the respondents is that the applicant before the inquiry officer has accepted the charges unconditionally. From the pleadings itself it is clear that applicant has accepted the charges during the course of inquiry. The counsel for the respondents has relied upon the judgment passed by our Co-ordinate Bench of Chandigarh in O.A. No.1091/CH/2013 decided on 08.10.2014 (*Jai Bhagwan Chhachia vs Union of India and others*) whereby it has been held that if the applicant accepts the guilt during the course of the inquiry then no further proceedings to be carried out. The relevant portion is as under:-

“29. The most startling fact which cannot be ignored is that the applicant has admitted his guilt by deposing part of the amount and this itself was enough to hold him guilty of charges and no further enquiry was required. It is settled law



that No enquiry necessary when guilt is admitted. In the case of Central Bank of India vs. Karunamoy Banerjee, AIR 1968 SC 266 the Supreme Court has observed that "the rules of natural justice, as laid down by this Court, will have to be observed, in the conduct of a domestic enquiry against a workman. If the allegations are denied by the workman, it is needless to state that the burden of proving the truth of those allegations will be on the management; and the witnesses called, by the management, must be allowed to be cross-examined, by the workman, and the latter must also be given an opportunity to examine himself and adduce any other evidence that he might choose, in support of his plea. But, if the workman admits his guilt, to insist upon the management to let in evidence about the allegations, will, in our opinion, only be an empty formality". In nutshell, if an employee against whom disciplinary proceedings are instituted, admits his guilt, there is no necessity for the management to hold any enquiry. The Hon'ble Apex Court in the case of Channabasappa Basappa Happali, vs. The State of Mysore, AIR 1972 SC32, has observed that "it was contended on the basis of the ruling reported in R. V. Durham Quarter Sessions; Ex parte Virgo, (1952 (2) QBD 1) that on the facts admitted in the present case, a plea of guilty ought not to be entered upon the record and a plea of not guilty entered instead. Under the English law, a plea of guilty has to be unequivocal and the Court must ask the person and if the plea of guilty is qualified the Court must not enter a plea of guilty but one of not guilty. The Police constable here was not on his trial for a criminal offence. It was a departmental enquiry, on facts of which due notice was given to him. He admitted the facts. In fact his counsel argued before us that he admitted the facts but not his guilt. We do not see any distinction between admission of facts and admission of guilt. When he admitted the facts, he was guilty. The facts speak for themselves. It was a clear case of



indiscipline and nothing less". In case a workman admits the charge against him or makes an unconditional and unqualified confession then there is nothing more to be done away of enquiry and it cannot be argued that the procedure of departmental enquiry should have been applied notwithstanding such admission or confession held in J.L Toppo vs. Tata Locomotive & Engg. Co. Ltd., 1964 ICR 586 (IC). In the case of P.K Thankachan vs. Thalandu services Co-op Bank, 1994 II LLJ 423, the Hon'ble High Court of Kerala has held that - Evidence is required to prove disputed facts and no admitted facts. Where an admission is made after knowing the charges, no evidence is required to be held. It would be a different matter if the admission of guilt is by an employee who could not understand what the charges were or if he was induced or coerced into admitting his guilt. In the case of Manager Boisahabi tea Estate vs. P.O. Labour Court, 1981 Lab IC 557, the Hon'ble Guahati High Court has held that - a misconduct owned and admitted by the delinquent is antithesis of the violation of principles of natural justice or victimization as understood in industrial relations, as the question of prejudice does not arise under such circumstances.

30. In the light of the above, we are left we no other option but to reject the present OA being devoid of merit. The OA is accordingly dismissed, leaving the parties to bear their own costs."

So, it is crystal clear from the above judgment of **Jai Bhagwan Chhachia** (supra) that if there is acceptance of charges/guilt by the delinquent there is no question of prejudice which is to be caused to the applicant. Moreover from the pleadings the applicant has failed

to proof the fact that any prejudice has been caused to the applicant in any manner. Further the applicant has preferred appeal before the appellate authority which has been duly considered by the appellate authority. We are of the view that ample opportunities have been given to the applicant and there is no illegality and ambiguity in the order passed by the respondents.



9. Resultantly, this Original Application is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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