

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 79 of 2016

Reserved on: 27.11.2019

Date of order: 04.12.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri Sital Chandra Panda,
Son of late Chandi Charan Panda,
Aged about 60 years,
Residing at Vill. - Kushpata,
P.O. - Ghatal,
Dist. Paschim Medinipur,
PIN - 721 212.

..... Applicant

Versus

- 1) Union of India
through the Secretary,
Ministry of Communication,
Department of Posts,
Dak Bhawan,
New Delhi.
- 2) The Chief Postmaster General,
South Bengal Region,
Yogayog Bhawan,
C.R. Avenue,
Kolkata - 700 012.
- 3) The Director of Postal Service,
Department of Posts,
Office of the Post Master General,
South Bengal Region,
Yogayog Bhawan,
C.R. Avenue,
Kolkata 700 012
- 4) The Sr. Superintendent of Post Offices,
Ghatal Sub Division,
Dist. Paschim Medinipur.

..... Respondents

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. B.P. Manna, Counsel



ORDER**Per Dr. Nandita Chatterjee, Judicial Member:**

The applicant has approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985, praying for the following relief:-

"(a) Charge-sheet dated 30/06/2015 cannot be sustained in the eye of law and as such the same may be quashed.

(b) Punishment Order dated 30/06/2015 issued by the Disciplinary Authority cannot be sustained eye of law and such the same may be quashed.

(c) Memo. Dated 21/08/2015 issued by the Appellate Authority is bad in law and therefore the same may be quashed.

(d) An order do issue directing the respondents to reinstate the applicant and to pay his salary till normal date of retirement and to grant pension and other pensionary benefits."

2. Heard both Ld. Counsel, examined pleadings and documents on record.

3. Ld. Counsel for the applicant would submit that the applicant, while working as erstwhile Cash (OS)/Ghatal MDG and also as Head Postmaster, Ghatal MDG, received a major penalty chargesheet on the allegation that the Government has sustained a loss of Rs. 5,00,000/- for his alleged negligence or misconduct. The applicant participated in the proceedings which culminated with the penalty of dismissal from service issued vide memo dated 30.6.2015 (Annexure A-1 to the O.A.). The applicant, thereafter, preferred an appeal dated 14.7.2015 to the appellate authority which was disposed of by the appellate authority vide its order dated 21.8.2015 whereby the penalty order imposed by the disciplinary authority was upheld (Annexure A-6 to the O.A.).

During hearing, Ld. Counsel for the applicant would vociferously argue that a criminal case had also been lodged against the applicant (titled as Special Trial Case No. 2/2007) in which the applicant was acquitted beyond all reasonable doubt on the grounds that the

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prosecution has failed to prove their accusation under Rule 409 IPC against the accused (Annexure A-7 to the O.A.).

4. Ld. Counsel for the respondents, would robustly argue that the Court of Ld. Sessions Judge, Paschim Midnapore, while issuing such acquittal order, however, had noted as follows:-

"It has been stated in ext. 1 that on 8.2.2007 the accused person was sent to SBI Ghatal at about 10-40 hrs. to withdraw Rs. 15 lakh. At about 12 noon he informed the Post Master over telephone that a bundle of Rs. 5 lakh was missing. After withdrawal of money the accused kept the same in two bags. He told the post master that he kept the bags near cash counter but none was present in front of the cash counter. He made irrelevant statement. So, there is reasonable belief that he misappropriated the government money. The averment of ext.1 tallies with the evidence of PW. 12."

5. Both Ld. Counsel, however, would agree, during hearing that, as the applicant has yet to exhaust his rights in preferring a revisionary appeal, the applicant may be given liberty, upon waiver of limitation period, to prefer such revisionary appeal to the competent respondent authority in which he would pray for modification of the penalty as proportionate to his offences upon his candid submission to return the Rs. 5,00,000/-, to the authorities.

6. Accordingly, we accord the applicant liberty to withdraw this O.A. and to prefer a comprehensive revisionary appeal to the competent respondent authority making such submissions he would like to make within six weeks from the date of receipt of a copy of this order. The competent respondent authority, shall, upon receipt of such revisionary appeal, decide in accordance with law, and, particularly, consider the scope of revision of his penalty orders, in the event, that the applicant/charged officer offers to make good the loss of Rs. 5,00,000/- to the respondent authorities.

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The orders of the revisional/appellate authority should be issued in the form of a reasoned and speaking order within 12 weeks from the date of receipt of the revisionary appeal from the applicant.

7. With these directions, the O.A. is treated as withdrawn with liberty to the applicant to prefer a revisionary appeal to the competent respondent authority.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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