

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01433/2014

HYDERABAD, this the 15th day of December, 2020



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

K. Chandra Mohan S/o K. Thimmaiah,
Hindu, Aged 40 years, working as GDSSV,
Patel Road TSO, Anantapur Town,
R/o H.No.4/490, 5th Road, Anantapur.

...Applicant

(By Advocate : Mr. T. P. Acharya)

Vs.

1. Union of India, Ministry of Communications & IT,
Department of Posts, Dak Bhavan, Parliament
Street, New Delhi – 110 001,
Represented by its Director General.
2. The Chief Post Master General, A.P.Circle,
Abids, Hyderabad – 500 001.
3. The Post Master General, Kurnool Region,
Kurnool-518 002.
4. The Superintendent of Post Offices,
Anantapur Division, Anantapur – 515 001.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr.CGSC)

ORAL ORDER
(As per Hon'ble Mr. B. V. Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA is filed imposing the penalty of debarring the applicant from appearing in the recruitment examination for the post of Postman and from being considered for recruitment as Postal Assistant for a period of one year.

3. Brief facts of the case are that the applicant while working as Grameen Dak Sewak in the respondents organisation participated in the Postman examination held for selection to the post of Postman. The exam held at Anantapur was riddled with malpractices and therefore, a criminal case was filed by the CBI, in which, the applicant was shown as accused and later, was acquitted by the CBI Court on 15.4.2013. Simultaneously, respondents initiated departmental proceedings and after due inquiry, imposed the penalty of debarring the applicant from appearing in the recruitment exam for Postman and Postal Assistant for a period of one year on 10.9.2014. The substitute arrangement of the applicant in the Postman vacancy was also terminated on 26.11.2014. Aggrieved, OA has been filed.

4. The contentions of the applicant are that when the criminal case on the same charges was dropped, it is irregular to penalise the applicant in a departmental case. The inquiry officer held that the charges were not proved. Disciplinary authority disagreed with the I.O. report based on the statement given by the applicant in the presence of the AD, Kurnool, under duress. Principles of Natural Justice were violated. The substitute arrangement of the applicant in the cadre of Postman was terminated

though the penalty was to debar the applicant to appear in the Postman/Postal Assistant exam for one year and that too, at the behest of the Unions. In fact, denying the substitute arrangement in the Postman post is double jeopardy. GDS Rules does not have any provision for the disciplinary authority to disagree with the I.O.



5. Respondents state that the applicant was named as an accused by the CBI in a criminal case for resorting to malpractices by the applicant in the exam held at Anantapur for selection to the post of Postman on 18.3.2007. The CBI court has acquitted the applicant on 15.4.2013 and in the departmental proceedings, the applicant was debarred to appear in Postman/Postal Assistant for a period of one year on 10.9.2014. There is no bar to take disciplinary action even if the applicant is acquitted in a criminal case. When the applicant was debarred to appear in the Postman exam, he cannot work as Postman post till the penalty was over and that the Trade Unions have been given the right to ventilate any inadequacies in administrative decisions in order that the employees interests are protected as per rules.

6. Heard both the counsel and perused the pleadings on record.

7. I. It is not in dispute that the applicant was proceeded in a disciplinary case for indulging in malpractices as a candidate in the Postman exam conducted by the respondents at Anantapur on 18.3.2007. CBI has filed a criminal case against the applicant and the CBI Court has acquitted the applicant on 15.4.2013. Respondents have imposed the penalty of debarring the applicant from appearing in the Postman/Postal Assistant for a period of one year on 10.9.2014. The contention of the

applicant that since he has been acquitted in a criminal case on the same charge, imposing a penalty in the departmental case is irregular. We do not agree, because, the standard of proof required in a criminal case is beyond reasonable doubt and in departmental case, it is preponderance of probability. Besides, ingredients of delinquency in a criminal and a disciplinary case are different. It is the element of misconduct, which is examined in a disciplinary case and in the criminal case, it is the offence which takes the centre stage. When the applicant was debarred to appear in the Postman/Postal assistant exam, it would effectively mean that he is not qualified to hold the Postman post even as a substitute. One cannot take objection to the Trade Unions' right to bring to the notice of the administration about any decision, which is not in conformity with the rules. Same procedure as prescribed in CCS (CCA) Rules is followed in respect of GDS employees as per GOI decision vide DOPT OM dated 27.11.1995.

II. However, it is noticed that the penalty was imposed in 2014 and the punishment was a period for one year and hence, the currency of the penalty is over. The penalty would, thus, not attach any further stigma to the applicant in his furtherance of his career. Therefore, the OA, having become infructuous, as agreed to by both the counsel, is closed. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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