

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/856/2016

HYDERABAD, this the 19th day of February, 2021



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

I. Malleswar Rao,
S/o. Late Venkateswarlu,
Aged about 47 years,
Occ: Sub Postmaster, Prathipadu SO,
(under the orders of suspension),
Kakinada Division, East Godavari District.

...Applicant

(By Advocate: Sri Dr. A. Raghu Kumar)

Vs.

1. Union of India rep. by its
Secretary, M/o. Communications and
Information Technology,
Department of Posts, Dak Bhavan, New Delhi.
2. The Chief Postmaster General,
Dak Sadan, Abids, Hyderabad – 500 001.
3. The Postmaster General,
Visakhapatnam Region, Visakhapatnam,
4. The Director of Postal Services,
O/o. Postmaster General,
Visakhapatnam Region, Visakhapatnam.
5. The Superintendent of Post Offices,
Kakinada Division, East Godavari District.

....Respondents

(By Advocate : Sri A. Vijaya Bhaskar Babu, Addl. CGSC)

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

Through Video Conferencing:



2. The O A is filed aggrieved by rejection of bias petition/ appeal made by the applicant and consequently, to direct the respondents to change the inquiry officer.

3. Brief facts of the case are that the applicant was suspended while working as Sub Post Master, Pratipadu Sub Post Office on 26.8.2011 and the same was extended from time to time by the competent committee. Charge memo was issued on 29.8.2012 and IO/PO were appointed. Several representations were submitted to revoke suspension and when it was not done, OA No.966/2014 was filed wherein it was directed to complete the disciplinary proceedings in one month including final orders or else reinstate the applicant. Inquiry was completed hastily and penalty of dismissal was imposed on 29.11.2014. On appeal, the appellate authority has ordered denovo inquiry setting the aside the penalty. However, the same I.O was re-appointed to conduct the denovo inquiry, which was objected to, but of no avail and hence, the OA.

4. The contentions of the applicant are that the IO, whose findings have been set aside on appeal, would be biased against the applicant if allowed to conduct the disciplinary proceedings. Bias has to be looked into from the angle of the accused and not from that of the prosecution. The order rejecting the request to change the I.O is not a speaking order.

5. Respondents in their reply statement state that the applicant was involved in a savings bank account to the extent of Rs.2.53 lakhs. Charge sheet was issued on 29.8.2012 and while the proceedings were going on, applicant filed OA 966/2014 before this Tribunal wherein it was directed to complete the proceedings within one month and the same was completed on 21.10.2014 and penalty of dismissal was imposed on 29.11.2014, after obtaining extension of time by filing MA. On appeal, the penalty imposed was set aside and denova inquiry was ordered from the stage of perusal of documents, since the I.O proceeded with the examination of witnesses without furnishing some documents due to paucity of time. Accordingly, I.O was appointed on 31.7.2015 and bias petition was rejected by the disciplinary authority on the grounds that the appellate authority while disposing the appeal has not ordered any change of I.O. Earlier too, the I.O was changed twice on grounds raised by the applicant. Applicant is harping on technical flaws and the real truth is that the applicant has admitted the fraud and has credited a sum of Rs.93,646 voluntarily. Suspension was not revoked on grounds of moral turpitude. Subsistence allowance has been granted as permitted under the rules. Speaking order was issued while rejecting the bias petition filed against the I.O. In view of filing of the instant OA, inquiry has been deferred from 9.2.2017 and even the I.O has been changed by appointing Sri A. Veerabhadra Rao as I.O. As per Hon'ble High Court of Judicature at Hyderabad, if the stay granted is not extended, it would automatically lapse after 6 months.



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

7. The dispute is about changing the I.O. for conducting the inquiry against the applicant for having been involved in a SB accounts fraud. Based on the inquiry report, the penalty of dismissal was imposed and on appeal, denovo inquiry was ordered from the stage of perusal of documents by allowing the same I.O to continue with the inquiry. Though objected to by the applicant, it was overruled. We agree with the contention of the applicant that continuing the same IO is not correct, since the procedure he followed in conducting the inquiry was found fault with. Therefore, an element of bias would definitely creep in. However, the respondents, on their own, have appointed a new I.O by name Sri A.Veerabhadra Rao, as prayed for. Respondents need to take care that the disciplinary proceedings are completed in a definite time frame as laid down in the rules/law. In regard to continuing the suspension of the applicant and subsistence allowance, a separate OA 449/2016 has been filed, which is pending adjudication. In regard to validity of the interim order passed, respondents have cited the order of the Hon'ble High Court of Judicature at Hyderabad stating that it becomes invalid if not extended after 6 months.

Therefore, in view of the above, nothing survives in the OA to adjudicate upon. Hence, the OA is treated as closed and accordingly disposed of, with no orders as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/