

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/772/2020

HYDERABAD, this the 18th day of January, 2021



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

Smt K.B. Usha Rani,
W/o. B.S. Vidhya Sagar,
Aged about 62 years,
Ex – Postal Assistant (Retd.),
Hindupur Post Office, A.P.
R/o. D.No.17-1-38, RPGT Road,
Hindupur, Anantapur District.

...Applicant

(By Advocate : Sri K. Sudhakar Reddy)

Vs.

1. Union of India rep. by its
Chief Postmaster General,
Vijayawada, A.P.
2. The Postmaster General,
Kurnool Region,
Kurnool – 518 002.

....Respondents

(By Advocate: Sri M. Brahma Reddy, Sr. PC for CG)

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

Through Video Conferencing:



2. The OA is filed in regard to release of pensionary benefits.
3. Brief facts of the case are that the applicant who was working as Sub Postmaster in the respondents organisation was suspended on 13.10.2015 pending disciplinary proceedings and was issued a Rule 14 charge sheet on 29.8.2016 which resulted in imposing the penalty of compulsory retirement on 27.04.2017. Appeal preferred was rejected on 3.7.2017 and challenging the rejection, OA 665/2017 was filed which was allowed, wherein the penalty of Compulsory retirement was set aside. Order of the Tribunal was challenged in WP No.1847/2019, which was partly allowed on 23.9.2019. Applicant retired on superannuation on 30.4.2018 and the retiral benefits have not been released and hence the OA.
4. The contentions of the applicant are that despite the orders of the judicial fora, not releasing the retiral benefits including the salary from the date of Compulsory retirement and pension worked thereupon, is illegal. Applicant is being harassed and hence, exemplary costs should be imposed.
5. Respondents in the reply statement state that the applicant while working as Sub Post Master of Mudireddipalli Sub Post Office was involved in a fraud in respect of Savings Bank and Recurring Deposit accounts to the tune of around Rs.10.35 lakhs. Applicant credited Rs.5.57 lakhs towards the loss caused into the Govt. accounts. Disciplinary proceedings were initiated and thereafter, penalty of compulsory retirement



was imposed on 27.4.2017 while allowing 95% pension only to the applicant. For being involved in a fraud applicant was suspended on 14.10.2015 and reinstated on 18.11.2016 by treating the intervening period as such. The penalty imposed was set aside by the Tribunal in OA 665/2017 and when the matter was carried over to the Hon'ble High Court in WP No.1847/2019, there was no success. Respondents approached the applicant on 8.11.2017, 10.10.2018 to submit the pension papers, but she did not submit. However, leave cash encashment to the extent of Rs.5.91 lakhs was sanctioned to the applicant on 29.11.2018. Applicant has been claiming consequential benefits from the date of compulsory retirement for which she was informed that the judicial remedies are being explored. Applicant also filed OA 927/2017 seeking refund of Rs.5.57 lakhs deposited by her towards the loss on the ground that the fraud amount shown in the charge sheet was only Rs.14000. Tribunal directed refund of the amount and on challenge, the Hon'ble High Court suspended the order of the Tribunal vide IA No. 1 of 2019 in WP 166/2019. The order of the Hon'ble High Court in WP No.1847/2019 was received on 28.11.2019 and a WPMP was filed seeking extension of time on 7.3.2020 which is yet to be disposed. In the meanwhile, matter was referred to Postal Directorate who have decided to file an SLP on 11.12.2020 against the order of the Hon'ble High Court.

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

7(I) Applicant for being responsible in the occurrence of a fraud in Savings Bank and Recurring deposit accounts transacted at Mudireddipalli single handed Sub Post Office to the tune of Rs.10.35 lakhs, while she was working as Sub Postmaster, was proceeded on disciplinary grounds and was

retired compulsorily by allowing only 95% pension on 27.4.2017. Appeal preferred was rejected and hence the penalty imposed was challenged in OA 665/2017, which was partly allowed on 22.6.2018 by passing the following order:



“37. In view of the above, I am of the firm opinion that the view expressed by the Hon’ble Judicial Member, that rule of Principles of Natural Justice have been violated is well founded. The admission cannot be stated to be made voluntarily or unequivocal. In terms of wordings used by the applicant in respect of the admission made at two different stages, such admission cannot be the sole basis for holding the applicant guilty unless the other material establishes the guilt of the applicant is available. In such circumstances the legal prejudice is deemed to have been caused to the applicant on account of violation of principles of natural justice and mandatory rules as discussed herein above. The reference is accordingly answered.

38. Hence in view of the above, the order of punishment No. F-4-01/15- 16/I, dated 27.04.2016 and the appellate order No.Inv/13-KBUR/2017, dated 03.07.2017 deserves to be set aside.

39. Accordingly the OA is allowed. The impugned orders dated 27.04.2016 passed by the Disciplinary Authority and order dated 03.07.2017 passed by Appellate Authority are set aside.

40. As the applicant has already retired on 30.04.2018, the question of her reinstatement into service does not arise. However she would be entitled to get all the consequential benefit till the date of her retirement.

37. Liberty is granted to the Respondents that they may proceed with the enquiry from the stage of serving the charge sheet against the applicant in accordance with law and Rules.

38. No order as to costs.”

Respondents filed WP 1847/2019 wherein the Hon’ble High Court has directed as under:

“12. A perusal of the impugned order shows that the learned Judicial Member framed the following four points for consideration :-

(i) Whether the procedure was fully complied with while conducting the enquiry against the applicant?

(ii) Whether the admission made by the applicant has been voluntarily made?

(iii) Whether the applicant established that she was induced or compelled to make the admission by IO and DA?

(iv) *Whether the order of the DA reducing the pension by 5% is within the competence of the Disciplinary Authority?*



13. *It is absolutely not in controversy that after receipt of the charge memo dated 29.08.2016, the applicant-respondent herein specifically requested in writing on 03.09.2016 to furnish the documents and the complaints said to have been made. No information is forthcoming as to what happened on the said request made by the applicant-respondent herein. In fact, while dealing with point No.1, the Tribunal, at paragraph No.27 of the impugned order, recorded categorical finding that the disciplinary authority and the enquiry officer failed to take any decision for supply of copies demanded by the applicant before proceeding further with the enquiry. It is also significant to note that when an application was made/representation was made by the applicant on 09.05.2017, requesting to furnish the documents, even at that time also, the Superintendent of Post Office, Hindupur Division, vide F/4-01/15-16 dated 15.05.2017, rejected the request of the applicant to furnish the documents.*

14. *The Tribunal also had taken note of the state of mind of the applicant. While dealing with point No.2 also, the Tribunal elaborately discussed about various events that took place during the course of enquiry and also had taken into consideration that the applicant herein was at the verge of retirement and her intention was not to prolong the issue. It is also evident from a reading of the orders of the Tribunal that the Tribunal while referring to the Judgments of the Hon'ble Apex Court in State of U.P. v. Shatrughan Lal, (1998) 6 SCC 651; High Court of Punjab & Haryana v. Amrik Singh, 1995 SCC (L&S) 471 and Kashinath Dikshita v. Union of India, (1986) 3 SCC 229, and also the mandatory provisions of Rule 14 of CCS (CCA) Rules, came to the conclusion that in violation of the principles laid down in the above referred judgments, the disciplinary authority inflicted the punishment of compulsory retirement on the respondent herein. It is a settled and well established principle of law that unless the order/action impugned suffers from jurisdictional error or patent perversity or passed in violation of principles of natural justice, a Writ, in the nature of Certiorari, cannot be issued by this Court under Article 226 of the Constitution of India. In the considered opinion of this Court, the said contingencies are conspicuously absent in the case on hand.*

15. *For the aforesaid reasons, the Writ Petition is partly allowed to the extent of holding that the applicant-respondent herein would be entitled to get all the consequential benefits till the date of retirement. The entitlement to the said extent would depend upon the enquiry if any to be initiated by the authorities as indicated in the penultimate paragraph of the impugned order. It is made clear that in the event of proceeding with the enquiry, as indicated in the above paragraph, the same shall be completed within a period of three months from the date of receipt of copy of this order."*

II. The applicant was to be paid all the consequential benefits depending on the inquiry, which the respondents should complete within 3 months.

Respondents could not take action within the prescribed time period as the matter was referred to the Postal Directorate in view of the fact that the applicant retired on 30.4.2018. Respondents have also filed WPMP in WP no 1847/2019 seeking extension of time on 7.3.2020 which is pending disposal. Besides, respondents state that a decision has been taken on 11.12.2020 to file an SLP against the orders of the Hon'ble High Court.



III. As is seen from the facts of the case, the order of the Hon'ble High Court dt. 23.9.2019 has to be implemented. The respondents have filed for extension of time in March 20 which is yet to be heard by the Hon'ble High Court. No SLP has been filed except to state that a decision has been taken to file the SLP in December 2020. Hence, as on date, the order of the Hon'ble High Court holds good and hence, has to be respected. It is also observed that the leave encashment has been paid and in regard to the pension, the applicant refused to submit the pension papers despite being directed by the respondents. It was incorrect on part of the applicant not to submit the pension papers and then claim that consequential benefits on retirement have not been paid. Applicant has to submit the pension papers making a claim on the basis of the Hon'ble High Court order. Only after the pension papers are submitted, respondents can take a decision. Albeit, we could have disposed the OA directing the applicant to seek relief by filing a CP before the Hon'ble High Court on the grounds that the order of the High Court has not been implemented, but since the matter relates to pension and the applicant's claim is not settled even after a lapse of 2 years 10 months, we dispose of the OA directing as under:

i.) Applicant shall submit the pension papers to the competent authority, within a period of 15 days from the date of receipt of this order, making a claim as per the order of the Hon'ble High Court dated 23.9.2019.



ii.) Respondents to settle the claim made as per the orders of the Hon'ble High Court within a period of 3 months from the date of receipt of the filled in pension papers from the applicant.

iii.) Implementation of (i) & (ii) above is subject to grant of any relief to the respondents from the superior judicial fora within the period of 3 months allowed to implement the judgment.

With the above direction, the OA is disposed of with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/