

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00050/2021

HYDERABAD, this the 4th day of February, 2021

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



Chenna Ramudu S/o Late Chenna Kasturi Rangaiah,
Aged about 52 years, Assistant Post Master,
(Mails), under suspension in Guntakal Head Post
Office, under Anantapur Postal Division and now
Resident of H. No. 13/193/203A, Kasupuram Road,
Behind TTD Kalyana Mantapam, Guntakal,
Andhra Pradesh.

...Applicant

(By Advocate : Mr. K. Venkateswara Rao)

Vs.

1. The Superintendent of Post Offices,
Anantapur.
2. The Director of Postal Services, Office of
The Postmaster General, Kurnool Region,
Kurnool.
3. The Chief Postmaster General, A. P. Circle,
Vijayawada.
4. The Post Master General, Kurnool Region,
Kurnool.
5. Union of India, represented by the Secretary,
Department of Telecommunication and I.T.,
20, Ashok Road, New Delhi.

....Respondents

(By Advocate : Mr. A. Surender Reddy, Addl. CGSC)

ORAL ORDER

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

Through Video Conferencing:

2. The Original Application is filed questioning the order of suspension dt. 03.09.2020 and extended further by order dt. 12.06.2020.



3. Brief facts of the case are that the Applicant was suspended on 03.09.2020 and memo was served on 24.09.2020. Charge Sheet drawn on 03.09.2020 was served on 24.09.2020. Thereafter, Charge Sheet was not issued within 90 days as directed by the Hon'ble Supreme Court judgment in Ajay Kumar v. Union of India. Appeal preferred against the same was rejected and hence the O.A.

4. The contentions of the applicant are that the non issue of Charge Sheet within the period of 90 days and the extension of suspension for further period is against the order of the Hon'ble Apex Court in Ajay Kumar. Appeal was dismissed without reason. Subsistence Allowance has not been enhanced though eligible. The Appointment Authority for the applicant is Director of Postal Services and not Respondent No.1.

5. Respondents per contra state that the applicant was involved in an alleged fraud of Rs.5.62 crores while working at Tadipattra Bazar Post Office. During rotational transfers of 2019, when Applicant was posted to Sainagar Post Office and relieved on 22.7.2019, he absconded from duty. Fraud referred came to light on 29.7.2019. Applicant in rotational transfers-2020 was posted to Guntakal Head Office on 12.06.2020 and on his joining

he was suspended on the same day. Respondent No.1, as Disciplinary Authority can impose minor penalties on LSG Officials as per Rule 11 of CCS (CCA) Rules, 1965. Appointing Authority of the applicant was informed about suspension on 15.6.2020 and the same was reviewed on 03.09.2020 and delivered to the Applicant on 24.09.2020. Same is the case with reference to Charge Sheet. Appeal preferred was rejected by the Appellate Authority. Applicant left the Headquarters without permission and hence, delay in delivery of suspension memo and Charge Sheet.

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

7(I) The dispute is about extension of the suspension beyond the period of 90 days and the issue of charge sheet after 90 days of date of suspension. The facts reveal that the applicant was involved in an alleged fraud of Rs.5.62 Crores and was suspended on 12.06.2020. Later, the suspension was extended by memo dated 03.09.2020 but delivered through Asst. Supdt. of Post Offices on 24.09.2020. Applicant contends that the delivery of suspension memo on 24.09.2020 would mean that the suspension was not extended within 90 days from 12.06.2020, and hence the suspension is invalid. As seen from the records, the Review Committee decided on extension of suspension on 03.09.2020 and it was dispatched by Registered Post on 07.09.2020 but was returned undelivered and hence, was got delivered in person by the Asst. Supdt. of Posts on 24.09.20. The fact that the decision was taken on 03.09.2020 and it was dispatched by Registered Post on 07.09.2020 cannot be denied. Delivery could not be effected because the applicant was out of station and that too without permission.

The date of decision is important than the date of delivery. Once the decision is taken and the memo is dispatched before 90 days by Registered Post, the same has to be taken as deemed delivery. Applicant is trying to seek relief by covering the issue with the veil of delay. If the veil is pierced, then the truth that the decision was taken well before 90 days i.e. on 3.9.2020 and the memo was despatched by Regd. Post on 7.9.2020 is revealed. Therefore, the technical ground of delay taken by the applicant would not survive. The non-issue of charge sheet within 3 months would be no reason to revoke the suspension. Each case has to be examined based on the facts of the case for extending the suspension. Nature and substance of the allegations are important. In the instant case is an alleged fraud of Rs 5.42 crores which is too serious a matter. It is possible given the gravity of fraud the applicant may try to tamper the records or influence the witness before the charge sheet could be issued. Our above comments are based on the observations of the Hon'ble Delhi High Court Judgment dated 05.07.2019 – in W.P. (C.) No. 7071/2019 in **Rakesh Kumar Garg V. Union of India & Ors.** as under:

“11. We may observe that there can be no hard and fast rule that in all cases where charge sheet is not filed within three months, of suspension, the same would mandatorily be revoked. The need for continuation of the same would have to be assessed on the facts of each case. Most relevant would be the nature and substance of allegations; the materials on which the same is founded; the position held by the concerned government officer i.e. whether he is holding a portion of authority and influence, or he is a lower ranked employee with little or no power to influence others concerned with the matter.

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14. The petitioner is a senior, highly ranked government officer and was occupying a high position at the time of his suspension. He was in a position to influence witnesses and tamper with the evidence. He has been released on bail. Pertinently, the petitioner has also not placed before us the order passed by the Court granting him bail which may have, if produced, thrown light on the allegations against the



petitioner. Considering all these aspects as well, we are not satisfied that the suspension of the petitioner should not have been continued in the present case.”

II. Besides, in respect of charge sheet, the date of drawing the charge sheet is the criteria as per Hon’lbe Supreme Court verdict in Civil Appeal No. 1240 of 1993 — ***Delhi Development Authority v. H.C. Khurana*** pronounced on April 7, 1993. Relevant observations of the Hon’ble Apex Court are as under:



“It will be seen that in Jankiraman also, emphasis is on the stage when a decision has been taken to initiate the disciplinary proceedings’ and it was further said that ‘to deny the said benefit (of promotion), they must be at the relevant time pending at the stage when charge-memo/charge- sheet has already been issued to the employee’. The word ‘issued’ used in this context in Jankiraman it is urged by learned counsel for the respondent, means service on the employee. We are unable to read Jankiraman in ‘this manner. The context in which the word ‘issued’ has been used, merely means that the decision to initiate disciplinary proceedings is taken and translated into action by despatch of the chargesheet leaving no doubt that the decision had been taken. The contrary view would defeat the object by enabling the government servant, if so inclined, to evade service and thereby frustrate the decision and get promotion in spite of that decision. Obviously, the contrary view cannot be taken.

‘Issue’ of the chargesheet in the context of a decision taken to initiate the disciplinary proceedings must mean, as it does, the framing of the chargesheet and taking of the necessary action to despatch the chargesheet to the employee to inform him of the charges framed against him requiring his explanation; and not also the further fact of service of the chargesheet on the employee. It is so, because knowledge to the employee of the charges framed against him, on the basis of the decision taken to initiate disciplinary proceedings, does not form a part of the decision making process of the authorities to initiate the disciplinary proceedings, even if framing the charges forms a part of that process in certain situations. The conclusions of the Tribunal quoted at the end of para 16 of the decision in Jankiraman which have been accepted thereafter in para 17 in the manner indicated above, do use the word ‘served’ in conclusion No.(4), but the fact of ‘issue’ of the chargesheet to the employee is emphasised in para 17 of the decision. Conclusion No.(4) of the Tribunal has to be deemed to be accepted in Jankiraman only in this manner. The meaning of the word ‘issued’, on which considerable stress was laid by learned counsel for the respondent, has to be gathered from the context in which it is used. Meanings of the ‘word issue’ given in the Shorter Oxford English Dictionary include ‘to give exit to; to send forth, or allow to pass out; to let out; to give or send out authoritatively or officially; to send forth or deal out formally or publicly-, to emit, put into circulation’. The issue of a chargesheet, therefore, means its despatch to the government servant, and this act is complete the moment steps are taken for the purpose, by framing the chargesheet and despatching it to the government servant, the further fact of its actual service on the government servant not being a necessary part of its requirement. This is the sense in which the word ‘issue’ was used in the expression ‘chargesheet

has already been issued to the employee', in para 17 of the decision in Jankiraman.'

In view of the above, we are unable to accept the respondent's contention, which found favour with the High Court, that the decision in Jankiraman, on the facts in the present case, supports the view that the decision to initiate the disciplinary proceedings had not been taken or the chargesheet had not been issued to the respondent prior to 28.11.1990, when the D.P.C. adopted the sealed cover procedure, merely because service of the chargesheet framed and issued earlier could be effected on the respondent after 28.11.1990, on account of his absence."



The charge sheet was drawn up on 3.9.2020, which is well before the 90 days period and hence, is in accordance with the law stated supra. Therefore, the legal principle laid down in *Ajay Kumar Choudhary v. Union of India* by Hon'ble Apex Court and relied upon by the applicant is not infringed. Moreover, applicant is involved in grave misconduct of alleged defrauding public money to the extent of Rs.5.62 crores. The very fact that the applicant absconded from duty after he was relieved from the office where the alleged fraud took place, does not speak well about the applicant. It is substantive justice namely the date of issue of the suspension memo and the charge sheet which is important and not the technical justice of delivering the memos, as per the legal principle laid down by the Hon'ble Supreme Court in *State Rep. by Inspector of Police, CBI vs M Subrahmanyam* in Crl.A. No(s). 853 of 2019 (arising out of SLP (Crl.) No(s). 2133 of 2019), decided on 7th May, 2019, as under:

"Substantive justice must always prevail over procedural or technical justice..... A balance therefore has to be struck. A procedural lapse cannot be placed at par with what is or may be substantive violation of the law."

III. In regard to the issue of the charge sheet by Supdt. of Post Office, Rule 11 of the CCS (CCA) Rules 1965, permits the same to the extent of

imposing minor penalties. The Appointing Authority for the applicant i.e. the Director of Postal Services was duly informed on 15.6.2020 as required under the rules. Hence, the action of R-1 in issuing the charge sheet cannot be found fault with and the doubt of the applicant as to whether the approval of the Appointing Authority was duly taken, is allayed in view of the intimation dated 15.6.2020.



IV. Therefore, in view of the aforesaid circumstances the action of the respondents is found to be in order. We do not find any merit in the submission of the applicant and hence the OA being devoid of merit, merits dismissal and hence dismissed at the admission stage itself. No costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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