

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/805/2018

HYDERABAD, this the 17th day of March, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



N.P. Reddy Naidu,
S/o. N. Chandraiah,
Agee 75 years, Occ: Retd. Postmaster,
R/o. D.No.5-1-1102, Suryanagar,
Amalapuram.

... Applicant

(By Advocate: Mr. K. Siva Reddy)

Vs.

1. The Union of India rep. by its
Secretary,
M/o. Communications & IT,
Dept. of Posts, Dak Bhawan,
Sansad Marg,
New Delhi – 110 001.
2. The Union Public Service Commission rep. by its
Under Secretary,
M/o. Communications & IT,
Dholpur House, Shahjahan Road,
New Delhi – 110 011.
3. The Director General of Posts,
Dept. of Posts,
Dak Bhawan, Sansad Marg,
New Delhi – 110 001.
4. The Post Master General,
Visakhapatnam – 530 017.
5. The Superintendent of Post Offices,
Amalapuram Division,
Amalapuram – 533 201.

... Respondents

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

O R D E R (ORAL)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

The applicant worked as Postmaster at Amalapuram, between 17.05.2000 & 25.11.2000. He was issued a charge memo dated 22.4.2002 under Rule 14 of the CCS (CCA) Rules, alleging that he was responsible for doing away the records of Amalapuram Head Post Office between 10.9.2001 and 10.10.2001, and thereby he violated the instructions laid down in the P&T Manual. The applicant submitted his explanation, denying the allegation. Since he retired from service on 31.10.2003, proceedings under Rule 9 of CCS (Pension) Rules were initiated. An Inquiry Officer was appointed and he submitted a report, holding the charge as proved. As required under Rule 9, the President of India sought the advice of the UPSC and based on that, passed an order dated 02.06.2005, imposing the penalty of 25% cut in pension, for a period of 3 years. Aggrieved by that, the applicant filed a Review, and the same was rejected on 30.08.2012. This O.A. is filed, challenging the order dated 02.06.2005, as confirmed by the order in review, dated 30.08.2012.

2. The applicant contends that the charges framed against him vide Memo dated 22.04.2002 are nothing but a repetition of the minor charge memo issued almost at the same time. It is stated that through an order dated 01.10.2002, minor penalty of recovery of Rs.32,708/- was imposed for the same alleged lapses.

3. Another contention of the applicant is that the Disciplinary Authority did not furnish a copy of the advice of the UPSC. Reliance is placed on the

judgement dated 16.3.2011 of the Hon'ble Supreme Court in Union of India & Others Vs S.K. Kapoor in Civil Appeal No.5341/2006.

4. The respondents filed a counter affidavit, stating that the allegations that led to the imposition of minor penalty on 01.10.2002 on the one hand and the charge memo dated 22.04.2002 on the other hand, are substantially different. It is also stated that the President imposed the penalty, duly taking into account the report of the Inquiry Officer and the advice tendered by the UPSC. As regards the non-furnishing of copy of advice of the UPSC to the applicant, it is stated that the same was enclosed to the order of punishment.

5. We heard Sri K. Siva Reddy, learned counsel for the applicant and Smt. K. Rajitha, learned counsel for the respondents.

6. The first contention of the applicant is that the charges that led to imposition of minor penalty on the one hand and those in impugned charge memo dated 22.04.2002 major penalty charges are one and the same.

7. We have compared both the sets of allegations. In the order dated 01.10.2002, the allegation against the applicant is that, being a Postmaster, he did not prevent the substantial deviation by the employees in the concerned post office. It was observed that the payment against Indira Vikas Patras, for short- IVPs, was required to be made in the form of cheque, if the amount exceeded Rs.20,000/-, and in violation of that, lakhs of rupees were paid in cash even where the value of certificate exceeded Rs.20,000/-. It was also mentioned that the aggregate of the disbursement under the IVP did not tally, and there was difference of more than one lakh rupees. On the allegation that

the applicant did not exhibit the proper managerial attention, the minor penalty of recovery of Rs.32,708/- was imposed.

8. The article of charge in the Memorandum dated 22.04.2002 reads as under:



Article-I

Shri N. P. Reddy Naidu during the period of his working as Postmaster, Amalapuram HO from 01.08.2001 to 25.11.2001, seeking involved in multiple fraud of cash certificates and fearing that his complicity would be proved by the force of the records of the H.O. did away with substantial part of records between 10.09.2001 and 10.10.2001, disregarding the instruction of SPOs, Amalapuram Division, Amalapuram communicated to him in SPOs, Amalapuram Letter No.INV/MISC dated 10.09.2001 and thereby violated the instructions laid down under Rule 156 of P&T Manual Volume V (IVth edition)(3rd reprint), the Memo of Distribution of Work of Amalapuram HO issued by SPOs, Amalapuram vide Letter No.MDW/APM HO dated 28.6.1994 and thus failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government servant in violation of Rule 3(1)(i), (ii) & (iii) of the CCS (Conduct) Rules, 1964.ö

There is nothing common between this and the one which constituted the basis for imposition of penalty. Therefore, the first contention cannot be accepted.

9. The second contention is that the respondents did not furnish a copy of the advice obtained from the UPSC. It is fairly settled that whenever advice of the UPSC is obtained, whether under Rule 14 of the CCS (CCA) Rules or under Rule 9 of the CCS (Pension) Rules, a copy thereof is required to be furnished to the employee, before it is acted upon, by the Disciplinary Authority. Admittedly, the respondents did not furnish a copy of the advice of the UPSC to the applicant, before the punishment is imposed. It is a different matter that a copy of the same was enclosed to the order of punishment. That hardly constitutes compliance.

10. The Hon'ble Supreme Court in **Union of India & Others Vs S.K. Kapoor** categorically held that any order of punishment would get vitiated in case the advice of the UPSC is not furnished to the employee.



11. Hence, we allow the O.A., setting aside the impugned order. Since the applicant has already been furnished copy of the advice of the UPSC, it shall be open to him to submit a representation within 15 days from today. The Disciplinary Authority may pass fresh orders, duly taking into account, the representation so made, within two months thereafter. The punishment of 25% cut in monthly pension for a period of three years has already been enforced. The further steps would depend on the nature of the orders, which the Disciplinary Authority may pass as indicated above. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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