

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.174/2021 with MA No.201/2021

This the 07th day of July, 2021.

**Coram : Hon'ble Shri Jayesh V.Bhairavia, Member (J)
Hon'ble Dr. A.K.Dubey, Member (A)**

Shri Kanubhai Bijalbhai Tadvi
DOB : 01.6.1961, Aged 60 years
Son of Shri Bijalbhai Manubhai Tadvi
Ex.Gramin Dak Sevak,
Branch Postmaster, Kareli Branch Post Office
P.O. Kevadia Colony – 392 411.
Taq. Garudeshwar, Dist: Narmada
Residing at Kareli, P.O., Kevadia Colony-392 411
Taq. Garudeshwar, Dist: Narmada..... Applicant
(By Advocate : Shri A.D.Vankar)

Versus

1. Union of India
Notice to be served through:
Secretary to the govt. of India
Ministry of Communication & I.T.
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi – 110001.
2. Postmaster General
South Gujarat Region,
Vadodara – 390 002.
3. Supdt. of Post Offices,
Bharuch Division,
Bharuch – 392 001. Respondents

ORDER (ORAL)

Per : Hon'ble Shri J.V. Bhairavia, Member (J)

1. In the instant OA, the applicant mainly submits that while he was working as GDS, the departmental inquiry was conducted in terms of

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EDA (C&S) Rules, 1964 and on conclusion of it, the Disciplinary Authority held that charges levelled against the applicant was proved and awarded major penalty of dismissal vide order dated 31.7.1992 (Annexure A/1). The order passed by the Disciplinary Authority remains unchallenged. It is stated that on identical allegation, criminal proceedings were also initiated against the applicant in a District Magistrate Court. vide judgment dated 23.7.2016, the applicant was exonerated in criminal proceedings i.e. in Criminal Case No.1009/1992 by the Judicial Magistrate, Rajpipla, Narmada, Gujarat (Annexure A/3). Challenged to the said judgment by the respondents in appeal, came to be dismissed by the Session Judge, Rajpipla vide order dated 23.03.2018 (Annexure A/4).

2. Counsel for the applicant submits that after the applicant was acquitted in criminal case, he had filed one representation dated 03.10.2018 before the respondent No.3 i.e. Sr. Superintendent of Post Office, Bharuch and requested he may be reinstated in service as he has been exonerated by the Magistrate Court in criminal proceedings. It is stated therein that the charges levelled in the departmental proceedings and criminal proceedings were identical. Therefore, he is entitled to be reinstated. The said representation of the applicant remained unanswered. Hence, this OA. Along with the present OA, the applicant has filed MA No.201/2021 for condonation of delay. The applicant has sought relief in the OA for quashing and setting aside the order passed by the Disciplinary Authority dated 31.7.1992

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(Annexure A/1) and further prays for issuance of a direction to the respondents for his reinstatement in service to the post of Gramin Dak Service by treating intervening period from 'put off duty' till 'date of reinstatement' as period spent on duty with consequential benefits.

3. In support of submissions, counsel for the applicant has relied upon the judgment passed by the National Consumer Disputes Redressal Commission, New Delhi in the case of *Superintendent of Post Office, Balughat & Ors. v/s. Mahendra Nath Basak Secretary, Safanagar High School*.
4. Counsel for the applicant Shri A.D.Vankar admits that the order passed by the Disciplinary Authority dated 31.7.1992 remained unchallenged, he further submits that the applicant will be satisfied, if the respondents be directed to consider his pending representation dated 03.10.2018 (Annexure A/5).
5. Heard Shri A.D.Vankar counsel for the applicant. Perused the materials on record.
6. Undisputedly, the order 31.07.1992 passed by the Disciplinary Authority awarded major punishment of dismissal remained unchallenged. The applicant had not to file any statutory appeal against the said punishment order. It appears that the order passed by the Disciplinary Authority attained finality. Therefore, in absence of any substantial legal ground to challenge the impugned decision of

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the Disciplinary Authority we do not find any merit in the prayer sought by the applicant in the present OA. It is noticed that the applicant has not pray for any relief in the OA with respect to for issuance of a direction to consider his pending representation. Even otherwise, the action taken by the Disciplinary Authority under EDA (C&S) Rules, 1964 and the criminal proceedings are altogether two different procedures. In the departmental proceedings, the charges stands proved long back in the year 1992. Subsequent acquittal of the applicant in criminal proceedings does not give any infeasible right to claim reinstatement that to without any challenge to the order passed by the Disciplinary Authority at the relevant time. Thus, the said order of dismissal under disciplinary proceedings attained finality. We have also gone through the judgments relied upon by the applicant, in the facts and circumstances of the present case, the same would not much helpful to case on hand. We do not find any reason to entertain this OA at this belated stage. OA and MA No.201/2021 lack merits. Accordingly, both are dismissed.

(A.K.Dubey)
Member (A)

(J.V.Bhairavia)
Member (J)

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