

Reserved**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
JABALPUR**Original Application No.203/317/2020**Jabalpur, this Wednesday, the 28th day of July, 2021**HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBERPramod Kumar Singh, S/o Late Prabhu Singh, aged about 52 years, Working as Postal Assistant, R/o H.No. K-9, Green Land Society, Vishal Nagar, Raipur (C.G.) 492001
-Applicant**(By Advocate – Shri A.V. Shridhar)****V e r s u s**

1. Union of India through the Secretary Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, parliament Street, New Delhi 110116.

2. Union of India through Directory, Postal Services, Head Quarters, Chhattisgarh Division, Raipur (C.G.) 492001.

3. The Chief Post Master General, Chhattisgarh Circle, Raipur 492001.

4. Senior Superintendent of Posts, Raipur, District – Raipur (C.G.)

-Respondents**(By Advocate – Shri Vivek Verma)***(Date of reserving order : 19.07.2021)***O R D E R****By Naini Jayaseelan, AM.**

The present Original Application has been filed against the show cause notice dated 29.05.2020 (Annexure A-1) issued by the Revisionary Authority,



wherein the punishment imposed on the applicant vide order dated 04.12.2019 (Annexure A-2) is proposed to be enhanced to 'removal from service'.

2. The applicant has sought for the following reliefs:

"8.1 That, the Hon'ble Tribunal may kindly be pleased to call or entire records pertaining to the case of applicant.

8.2 That, the Hon'ble Tribunal may kindly be pleased to quash the impugned show cause notice dated 29.05.2020 (Annexure A/1) and imposition of punishment dated 04.12.2019 (Annexure A/2).

8.4 Cost of the Original Application be awarded.

8.5 Any other relief which the Hon'ble Tribunal deems fit and proper may be awarded."

3. The applicant was working as Deputy Postmaster, Abhanpur when a charge memorandum dated 08.01.2018 (Annexure A-3) with two articles of charges. Article 1 of the charge memo alleges that the applicant had in an unauthorised manner put the seal of the Senior Superintendent of Post in the format Annexure-H for passport preparation while the Article 2 of the charge memo states that the applicant had forged the signature of Upper Superintendent of Post.

4. An inquiry was conducted and the Inquiry Officer submitted his report on 04.01.2019. Thereafter, the Disciplinary Authority imposed a punishment of downgrading the applicant to three stages w.e.f. 01.01.2020 for period of three



years without cumulative effect. The applicant **never** filed an appeal against this punishment order and now vide impugned order dated 29.05.2020 (Annexure A-1), the Revisionary Authority has decided to review the order of punishment and has issued a show cause notice as to why the applicant should not be removed from service.



5. The first contention of the applicant is that the same Senior Superintendent of Post, who is the complainant for forging his signature and affixing his seal without his permission, could not have acted as Disciplinary Authority. Secondly, the Inquiry Officer acted in haste to conclude the inquiry proceedings ex-parte. Thirdly, although the Disciplinary Authority was promoted as the Revisionary Authority, he could not act as Revisionary Authority having decided the case as Disciplinary Authority.

6. In their reply, the respondents have stated that the misconduct of the applicant proves his doubtful integrity, which is unbecoming of a Government servant. Since punishment awarded by the Disciplinary Authority was not found commensurate to the charges levelled against, the Revisionary Authority decided to review the above punishment under the powers conferred in Rule 29 of CCS (CCA) Rules, 1965. As per provisions of Rule 29(1)(v) of CCS (CCA) Rules, 1965, the Director Postal Services, i.e. the Revisionary Authority may

review any punishment awarded by the Senior Superintendent of Post Offices, within six months of the date of the order. Accordingly, a show cause notice dated 29.05.2020 has been issued to the applicant for enhancement of penalty from downgrading the pay of applicant to three stages for the period of three year without cumulative effect to removal from service.



6.1 Rule 49 of the Postal Manual Volume – III provides that, “Disciplinary authority in respect of an official is to be determined with reference to his posting at the relevant stages of the disciplinary case and not with reference to his posting and status at the time of commission of the offence”. It is the respondents’ contention that the chargesheet was issued by the then Senior Superintendent of Post Offices, Dr. Ashish Singh Thakur, who was holding the charge from 27.03.2015 to 07.12.2018 and thereafter he was promoted as a Director Postal Services, whereas the punishment was imposed on the applicant by Shri H.K. Mahawar, Senior Superintendent of Post Office, Raipur, being the Disciplinary Authority. Therefore, the complainant, i.e. Shri Ashish Singh Thakur has not exercised the power of Disciplinary Authority. Also, the applicant never filed an appeal, an opportunity which was available under Rule 23 of the CCS (CCA) Rules.

7. In the rejoinder, the applicant has stated that the preliminary inquiry was initiated at the instance of Shri Ashish Singh Thakur. The order of punishment nowhere provides for a remedy of appeal available to the applicant and, therefore, no appeal was preferred by the applicant. The applicant was denied all the reasonable opportunities to defend himself in the inquiry proceedings and that the Inquiry Officer proceeded ex-parte with the inquiry proceedings on 27.09.2018 and the prosecution witnesses were examined in absence of the applicant. The applicant was on continuous medical leave from 21.10.2017 and the finding of unauthorised absence, without there being any inquiry to this effect, is in violation of the relevant rules. It has also been stated by the applicant that in absence of any report of the handwriting expert or in absence of deposition of Shri Ashish Singh Thakur before the Inquiry Officer that the signature is forged, there was no occasion for the Inquiry Officer to come to the conclusion that the signature of Shri Ashish Singh Thakur had been forged.

8. We have heard the learned counsel for the parties.

9. The facts of the case are undisputed and the order of punishment (Annexure A-2) has been issued not by the complainant but by Shri H.K. Mahawar, Senior Superintendent of Post Office, Raipur. Therefore, there is no illegality with respect to the order of punishment issued by the Disciplinary



Authority more so because all reasonable opportunity was provided to the applicant to defend himself during the inquiry proceedings. To say that the applicant was not given an opportunity, is not correct in accordance with the record since the applicant was on unauthorised absence from 21.10.2017 and, therefore, the disciplinary proceedings were carried out *ex-parte*. It is also surprising that no FIR was filed in the case as it allegedly purports to an allegation of forgery, which is punishable under the Indian Penal Code.



10. It is a settled position of law that a Court/Tribunal shall not quash a chargesheet/show cause notice in a routine manner except the same has been issued by an incompetent authority or there is delay in initiating or concluding enquiry proceedings. In the matters of **Secretary, Ministry of Defence and others vs. Prabhash Chandra Mirdha**, (2012) 11 SCC 565, the Hon'ble Apex Court has held that;

“10. Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court.”

(emphasis supplied)

11. The show cause notice (Annexure A-1) by the Revisionary Authority is merely a show cause notice and the applicant has got due opportunity to reply to the show cause notice dated 29.05.2020 within a period of 15 days. Since the applicant had filed the Original Application on 11.06.2020, now the applicant may be given another opportunity of 15 days from the date of receipt of certified copy of this order to submit his detailed reply to the show cause notice and the Revisionary Authority may take an appropriate view within one month thereafter.

12. In view of the aforesaid, we do not find any reason to interfere with either the punishment order dated 04.12.2019 (Annexure A-2) or the impugned show cause notice dated 29.05.2020 (Annexure A-1). Accordingly, the Original Application is dismissed. No order as to costs.

(Naini Jayaseelan)
Administrative Member
am/-

(Ramesh Singh Thakur)
Judicial Member