

**Central Administrative Tribunal
Madras Bench**

OA/310/00440/2020

Dated the 14th day of June Two Thousand Twenty One

P R E S E N T

Hon'ble Mr.S.N.Terdal, Member(J)

&

Hon'ble Mr.C.V.Sankar, Member(A)

S.Joseph Irudhayaraj
Gramin Dak Sevak (Packer) (under Put Off duty),
Eraiur SO 607 201,
Vriddhachalam Postal Dn. ..Applicant
By Advocate **M/s.P.R.Satyanarayanan**

Vs.

1. Union of India, rep. by
The Post Master General,
Central Region,
Tiruchirappalli 620001.
2. Superintendent of Post Offices,
Vriddhachalam Division,
Vriddhachalam 606 001.
3. The Inspector Posts & Adhoc Disciplinary Authority,
Ulundurpet Sub Division,
Ulundurpet 606107.
4. The Inspector Posts,
Kallakurichi East Sub Division,
Kallakurichi 606 202. ..Respondents

By Advocate **Mr.M.Kishore Kumar**

ORAL ORDER

[Pronounced by Hon'ble Mr.S.N.Terdal, Member(J)]

The relief prayed for in this OA is as follows:-

“to call for the records relating to the impugned proceedings (I) No.Uld/ADA-01/01/2019-2020 dated 31.01.2020 and (ii) No.B-8/ADA-01/2019 dated 08.08.2020 issued by the third respondent and quash the impugned proceedings (I) No.Uld/ADA-01/01/2019-2020 dated 31.01.2020 and (ii) No.B-8/ADA-01/2019 dated 08.08.2020 issued by the third respondent as arbitrary, illegal and irrational and pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. Heard Mr.P.R.Satyanarayanan for the applicant and Mr.M.Kishore Kumar for the respondents. Perused the OA and all the documents.

3. The relevant facts of the case are that a Charge Memo was issued to the applicant proposing to hold a Departmental Enquiry under Rule 10 of GDS (Conduct & Engagement) Rules, 2011. The said Charge Memo was issued on 5.9.2019. But, however, on 30.1.2020 an impugned order was issued stating that the respondents are going to drop the said Charge Memo dated 5.9.2019 without prejudice to the issuance of fresh charge memo based on the same facts. The relevant para of the impugned order dated 30.1.2020 is extracted below:-

“Notice is hereby given to you that the undersigned has cancelled the Rule 10 Charge Memo issued to you vide the memo of even no B-8/ADA-01/2019 dt. 05.09.2019 without prejudice to the issuance of fresh charge memo based on the same facts.”

Subsequently, on the next day, i.e. 31.1.2020 the respondents issued another Charge Memo as per Annexure A6 and by order dated 8.8.2020, the respondents directed the

applicant to appear before the Enquiry Officer. The counsel for the applicant relied on the letter of the D.G.P&T by order dated 5.7.1979 and submits that the impugned order withdrawing the earlier charge memo without stating the reasons for dropping the said charge memo is not sustainable as per the above said letter dt. 5.7.1979. The said letter of the D.G.P&T is extracted below:-

“(3) Reasons for cancellation of original charge-sheet to be mentioned if fir issuing a fresh charge-sheet.- It is clarified that once the proceedings initiated under Rule 14 of Rule 16 of the CCS(CCA) Rules, 1965, are dropped, the Disciplinary Authorities would be debarred from initiating fresh proceedings against the Delinquent Officers unless the reasons for cancellation of the original charge-sheet or for dropping the proceedings are appropriately mentioned and it is duly stated in the order that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case. It is, therefore, important that when the intention is to issue a subsequent fresh charge-sheet, the order cancelling the original one or dropping the proceedings should be carefully worded so as to mention the reasons for such an action and indicating the intention of issuing a subsequent charge-sheet appropriate to the nature of charges the same was based on.”

Counsel for the applicant submits that as per the above said letter dt. 5.7.1979, the reasons for dropping the charge memo is a must. In support of the contention, the counsel for the applicant also relied upon the judgment of Hon'ble Karnataka High Court in Senior Superintendent of Post... vs. V.B.Ravindranathan dt. 27.11.2002 reported in 2003 (1) KarLJ 506; and on the judgment of the Hon'ble Calcutta High Court in the case of Alok Dey Roy v. Union of India passed by High Court of Judicature at Calcutta, WP (Central Admin Tribunal) No.210/2008 dt. 19.8.2009 and he also relied on the order passed by this Tribunal in OA No. 606/2014 dt.

31.10.2019.

4. From the perusal of the above judgments also, it is crystal clear that the reasons have to be stated before dropping the first charge memo with a liberty to issue fresh charge memo.

5. The counsel for the respondents vehemently and strenuously submitted that the first charge memo was dropped for some reasons. In support of his contention, counsel for the respondents relied upon the judgment of the Hon'ble Madras High Court in WP No.15015/2018 dt. 13.4.2019. But however, from the perusal of the impugned order dated 30.1.2020, which has been extracted above, it is clear that no reasons are mentioned in the said impugned order. The judgment relied upon by the respondents are not applicable to the facts of this case.

6. In view of the above facts and circumstances, the impugned charge memo dt. 31.1.2020 is set aside. But however, it is left to the authorities to proceed as per law. Accordingly, the OA is disposed of. No costs.

(C.V.Sankar)
Member(A)

(S.N.Terdal)
Member(J)

14.06.2021

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