

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00092/2021

Date of Order: This, the 22nd Day of March, 2021

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)

Shri Suman Sankar Biswas
Son of Late Sandip Biswas
Presently working as Inspector
Of Posts, Tezpur Sub Division
P.O. – Tezpur, Assam, Pin – 784001.



... Applicants

By Advocate: Sri M. Chanda

-Versus-

1. The Union of India
Represented by the Secretary to the
Department of Posts, Government of India
Ministry of Communication
Information and Technology
New Delhi, Pin – 110001.
2. The Director of Postal Services (HQ)
Assam Circle, Meghdoot Bhawan
Guwahati, Assam, Pin – 781001.
3. The Senior Superintendent of Post Offices
Darrang Division, Tezpur
Assam, Pin – 784001.

...Respondents

By Advocate: Sri V.K. Bhatra, Sr. CGSC

O.A. No. 040/92/2021

ORDER (ORAL)

MANJULA DAS, MEMBER (J):

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act 1985, with the following reliefs:-



“8.1 That the Hon’ble Tribunal be pleased to set aside and quash the impugned Memorandum of Charge dated 29.12.2020 issued by the Senior Superintendent of Post Offices, Darrang Division, Tezpur as well as the impugned order dated 26.02.2021 also issued by the Senior Superintendent of Post Offices, Darrang Division, Tezpur imposing penalty upon the applicant;

8.2 That the Hon’ble Tribunal be pleased to declare as null and void the disciplinary proceeding initiated by the respondents against the applicant by means of the impugned Memorandum dated 29.12.2020 issued by the Senior Superintendent of Post Offices, Darrang Division, Tezpur;

8.3 That the Hon’ble Tribunal be please to direct the Director of Postal Services (HQ), Assam Circle to dispose of the appeal dated 15.03.2021 preferred by the applicant before him expeditiously;

8.4 Costs of the case, and

8.5 Any other relief (s) as this Hon’ble Tribunal may deem fit and proper.”

2. Heard Sri M. Chanda, learned counsel for the applicant and Sri V.K. Bhatra, Sr. CGSC for the

respondents, perused the pleadings and all the documents enclosed there with the OA.

3. At the outset of argument, Sri M. Chanda, learned counsel appearing for the applicant vehemently argued as follows:-

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- (i) That the statement of imputation of misconduct or misbehaviour vide charge memorandum dated 29.12.2020 and consequential minor penalty imposed vide order dated 26.02.2021 for recovery of Rs. 35,20,000.00 and reduction of pay by one stage without increment for the period of two years without cumulative effect is not sustainable in the eye of law.
- (ii) That the period has not been cited in the charge Memorandum dated 29.12.2020 in which period the applicant failed to submit the inspection report of Deorajamaidam BO within 10 days and also does not speak about the period from which date.
- (iii) That, in the observations of finding, the respondent authority mentioned the period from 01.12.2010 (F/N) to 29.04.2015 (A/N) and about 05 years, the authority was sitting with the matter and after investigation, the authority found that one incumbent namely Sri Nabajyoti Baruah, GDSBPM, Deorajamaidam BO in a/c with Amguri SO defrauded huge amount and only Rs. 4,80,000/- was recovered from him.
- (iv) That even disciplinary proceedings as regards the embezzlement of Govt. money not yet finalized. The other 30 persons were there but the respondent department had failed to charged the other persons/alleged culprits and on the basis of furnishing of inspection report, the respondent department had imposed penalty of reduction of his pay by one stage as well as recovery of Rs. 35,20,000.00. Thus the disciplinary authority in a most casual manner, proceeded with the matter

that too after five years and imposed the penalty as above without proportionate. Thus the penalty imposed upon the applicant vide order dated 26.02.2021 is bad in law and not permissible under the law. In support of his contentions, Sri Chanda has referred the decision of Hon'ble Madhya Pradesh High Court in the case of **Union of India Vs. M.L. Khare (W.P. No. 10471 of 2010 dated 28.09.2011) and CAT, Ahmedabad Bench in O.A. No. 750 of 1998 dated 04.09.2001 in the case of J.M. Makwana Vs. Union of India and Ors.**

4. On the other hand, Sri V.K. Bhatra, Sr. CGSC appearing for the respondents fairly submits that appeal dated 15.03.2021 submitted before the Appellate Authority against the punishment order dated 26.02.2021 is pending and this Tribunal may direct the Appellate Authority to dispose of the same within time frame.

5. By taking note into the submissions made by Sri V.K. Bhatra, Sr. CGSC for the respondents where Sri M. Chanda, learned counsel for the applicant has got no objection to the Sr. CGSC's advice, we deem it fit and proper to direct the Appellate Authority to dispose of the pending appeal dated 15.03.2021 and pass a reasoned and speaking order, within a period of three months' from the date of receipt a copy of this order. Ordered accordingly.



6. Whatever decision to be arrived by the respondent/appropriate authority, shall be communicated to the applicants forthwith.

7. Meanwhile, operation of the impugned penalty order dated 26.02.2021 issued by the Disciplinary Authority shall be kept in abeyance.



8. It is made clear that the impugned penalty order dated 26.02.2021 shall not be given effect to, for further seven days of communication of the decision of the respondent authority.

9. With the above directions, O.A. stands disposed of at the admission stage itself.

10. There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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O.A. No. 040/92/2021