CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA/020/00393/2015

HYDERABAD, this the 12th day of April, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

Illapu Satyanarayana S/o Sambha Murthy,
Aged about 54 years,
Occ : Postal Assistant (under the orders of removal),
Yeleswaram Sub Post Office, Kakinada Division,
East Godavari District, R/o Yeleswaram, Kakinada,
East Godavari District. ...Applicant

(By Advocate : Dr. A. Raghu Kumar)

Vs.

1.The Union of India rep by Director General,
Department of Posts, Dak Bhavan, Sansad Marg,
New Delhi-1.

2. The Chief Postmaster General, AP Circle,
Dak Sadan, Hyderabad-1.

3.The Postmaster General,
Visakhapatnam Region, Visakhapatnam-17.

4. The Director of Postal Services,
O/o Postmaster General,
Visakhapatnam Region, Visakhapatnam-17.

5.The Superintendent of Post Offices,
Kakinada Division, Kakidana-533001. ....Respondents

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

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA is filed in regard to the dismissal of the applicant from service.

3. The brief facts of the case are that the applicant while working as Postal Assistant in the respondents organisation was suspended on 25.7.2012 and issued a charge memo on 28.4.2014. After due process of inquiry penalty of dismissal was imposed on 15.10.2014 by the disciplinary authority. Appeal preferred was rejected on 12.2.2015. Aggrieved, the OA is filed.

4. The contentions of the applicant are that the severe financial constraints in which the applicant was placed due to prolonged suspension forced the applicant to seek early conclusion of the disciplinary proceedings. Disciplinary proceedings conducted under economic strain are violative of Articles 14, 16, 21 and 311 of the Constitution. The admission of the charges in the disciplinary inquiry is because of confusion and not out of his own volition. Therefore, based on the confession, closure of the disciplinary proceedings is bad in law. The IO/PO reports were submitted on the same day and the PO report was not forwarded to the applicant. The appellate authority has relied on the admission of the applicant and did not go through the facts stated in the appeal. The appointment of the ASP (HQ) as I.O is incorrect since the files relating to the disciplinary case pass through the ASP (HQ), who is the immediate

subordinate to the disciplinary authority. I.O extracted the admission from the applicant.

5. Respondents per contra state that the applicant has admitted to have committed a fraud in regard to re-issue of KVP (Kissan Vikas Patra) certificate to the extent of Rs.10,000 and hence, was suspended on 25.7.2012. Rule 14 Charge Memo was issued under CCS (CCA) Rules, 1965 and in the disciplinary inquiry constituted for the purpose, the applicant admitted the charges on 5.8.2014. Although the inquiry report dated 20.9.2014 was served on the applicant on 27.9.2014, applicant chose not to represent and based on the I.O report the disciplinary authority imposed the penalty of dismissal on 15.10.2014. Appeal preferred was rejected vide order dated 12.2.2015. Respondents state that they have acted as per rules and law in taking action against the applicant. Respondents cited the judgments of the Hon'ble Apex Court to support their contentions.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about dismissal of the applicant on having admitted the charges framed against him under Rule 14 of CCS (CCA) Rules 1965 in charge memo dated 28.4.2014. The applicant, as seen from the facts, has admitted the articles of charge before the inquiry officer on 5.8.2014 and did not represent against the I.O report, leaving it open to the disciplinary authority to decide the case and accordingly, for having committed a fraud in reissue of Kissan Vikas Patra of value Rs.10,000/-, the disciplinary authority imposed the penalty of dismissal on 15.10.2014.

II. During the inquiry, the charges were read in vernacular language and explained to the applicant and thereafter, the applicant admitted the charges. Hence the contention of the applicant that he was confused, is not in the realm of reason. Further, applicant admitted the charges in writing. Even assuming that he was confused, at least he could have represented against the I.O report, which the applicant chose not to do. When the applicant did not prefer to represent against I.O report, which contains the elements of P.O brief, it is a mere technical objection raised that the P.O brief was not served. If PO's brief was not served, the applicant could have submitted a representation, which he did not and raising the said objection at this stage, is an afterthought.

III. The conduct of inquiry is a check and balance concept so that no one's right is not taken away without giving an opportunity to defend and more so where the rules provide for such inquiry. However, in cases where charges are admitted and no defence is placed before the I.O, what is the inquiry that can be done is something which the applicant need to ponder upon. Once the charges are admitted, there is no need to conduct any inquiry as per the verdict of the Hon'ble Supreme Court of India in ***Dharmarathmakara R.A. Ramaswamy Mudaliar Ed. Institution vs The Educational Appellate Tribunal*** on 20 August, 1999 as under:

> *The contention of learned counsel for the respondent is confined that there was no enquiry in terms of Section 6 of the said Act. There is no submission of any defence on merit. Even before us when we granted learned counsel an opportunity to give any prima facie or plausible explanations on record to defend her actions, nothing could be placed before us. Giving of opportunity or an enquiry of course is a check and balance concept that no ones right be taken away without giving him/her opportunity or without enquiry in a given case or where statute require. But this cannot be in a case where allegation and charges are admitted and no possible defence is placed before the authority concerned. What enquiry is to be made when one admits violations? When she admitted she did not join M.Phil course, she did not report back to her duty which is against her condition of leave and contrary to*

her affidavit which is the charge, what enquiry was to be made? In a case where facts are almost admitted, the case reveals itself and is apparent on the face of record, and in spite of opportunity no worthwhile explanation is forthcoming as in the present case, it would not be a fit case to interfere with termination order.

However, the respondents following the Principles of Natural Justice have given ample opportunities to the applicant to defend himself and thereafter imposed the penalty in question. Hence, the contention that the Principles of Natural Justice were not followed in untenable. The economic strain spoke of by the applicant is his own making and was not thrust upon by the respondents on him. But for the fraud the applicant would have continued to work normally for the respondents organisation. Keeping employees under suspension whose integrity is suspected for long periods is to protect the interests of a Public institution like the Post office which handles public money in crores each day.

IV. The other contention that the ASP (HQ) should not have been appointed as IO is incorrect since ASP (HQ) was not supervising the investigation branch. The applicant was never forced to admit the charges and therefore, it is unfair to state that the I.O has extracted the confession. The applicant has not also moved any bias petition against the I.O. and therefore, the contention that the I.O is biased since he worked as ASP (HQ) stands invalid. The appellate authority has weighed the relevant points and rejected the appeal.

V. Further, it is also observed that the applicant was involved in a major fraud of around Rs.50.46 lakhs in Recurring deposit accounts standing in the Yaleswaram SO where he worked earlier. The CBI has also filed a charge sheet under POC Act on 25.4.2014 in the competent court. Hence, the integrity of the applicant has come under the cloud. Post Office

is a public institution wherein millions of people deposit their hard earned money based on the trust they have in it. The applicant has belied the trust reposed in the Post Office and therefore, his continuation in the institution would not be in public interest. Moreover, defrauding public money is a grave misconduct. Besides, the judgments cited by the respondents of the Hon'ble Apex Court, as under, do call upon on the Tribunal to refrain from interfering in disciplinary cases unless there is violation of rules or law.

a) **The Administrator, Union Territory of Dadra & Nagar Haveli vs. Gulabhia M. Lad,** ***(2010) 5 SCC:***

"8. The scope of judicial review in disciplinary matters has come up for consideration before this Court time and again. It is worthwhile to refer to some of these decisions. In the case of B.C. Chaturvedi v. Union of India and Others3 this Court held:

> *"18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof".*

b) ***In Director General, RPF and Others v. Ch. Sai Babu , (2003) 4 SCC 331***

> *"6. ....Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of and discipline required to be maintained, and the department/establishment in which the delinquent person concerned works."*

c) *In* ***State Bank of India v. Samarendra Kishow Endow (1994(1) SLR 516)*** *–*

> *"On the question of punishment, learned Counsel for the respondent submitted that the punishment awarded is excessive and that lesser punishment would meet the ends of justice. It may be noticed that the imposition of appropriate punishment is within the discretion and judgment of the disciplinary authority. It may be open to the appellate authority to interfere with it but not to the High Court -- or to the Administrative Tribunal for the reason that the jurisdiction of the Tribunal is similar to the powers of the High Court under Article 226. The power under Article 226 is one of judicial review."*

d) **Union of India v. Parma Nanda – 1989 AIR 1185; 1989 (2) SCC 177**,

> *"2. The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."*

We find no serious violations to intervene nor any bias/ malafide intention in imposing the penalty of dismissal against the applicant. On the contrary the applicant was given ample opportunities to defend himself which he failed to utilize for reasons better known to him. We also note the contentions submitted by the respondents have not been refuted by the applicant in the form of a rejoinder.

VI. In view of the aforesaid circumstances, we do not find any merit in the OA and hence, the same is dismissed with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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