

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00429/2015

HYDERABAD, this the 15th day of June, 2021

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



Ch.Satyavardhana Raju S/o Late Izac,
Aged about 58 years, Occ : Peon,
(Under the orders of removal from service),
PrasarBharathi, All India Radio,
M.G Road, PunnammaThoda, Vijayawada-10,
R/o H.No.32-11-30/A, Mogalrajapuram,
Vijayawada-520010.

...Applicant

(By Advocate :Dr. A. Raghu Kumar)

Vs.

- 1.Union of India rep by its Secretary,
Ministry of Information & Braodcasting,
Government of India, ShastriBhavan,
New Delhi.
2. PrasarBharathi rep by the Director General,
Prasar Bharathi (Broad Casting Corporation of India),
New Delhi.
- 3.The Additional Director General, South Zone,
Prasar Bharathi, All India Radio,
Mylapuram Chennai, Tamilnadu-4.
- 4.The Station Director,
Prasar Bharathi (Broad Casting Corporation of India),
M.G Road, Punnammathota, Vijayawada-10.

....Respondents

(By Advocate: Mr. A. Radhakrishna, Sr.PC for CG)

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

Through Video Conferencing:



2. The present O.A. is filed challenging the order of the 4th respondent dated 18.3.2009, imposing a penalty of removal from service on the applicant and the 3rd respondent's order dated 16.10.2012, confirming the same and to quash and set aside the same as illegal, arbitrary and violative of Articles 14, 16 & 311 of the Constitution of India and the rules on the subject matter. Applicant has prayed for a direction to the respondents to reinstate him with all consequential benefits.

3. The brief facts of the case are that the applicant while working as Peon in the respondent's organization, a criminal case bearing CC No.47/2001 was registered against him on 3.1.2001, for an alleged shortage of four cheques in the cheque book issued by the Bank. Applicant was arrested and thereafter released on bail on 6.2.2001. Consequent to the arrest of the applicant, respondents have suspended him w.e.f 8.2.2001 and issued a charge memo on 1.3.2001. Inquiry was held and the three charges leveled against the applicant were held to be proved by the Inquiry Officer in the inquiry report. Based on the inquiry report, Disciplinary Authority imposed the penalty of removal from service on 18.3.2009, which was upheld by the appellate authority on 16.10.2012. Therefore, the O.A.



4. The contentions of the applicant are that other employees namely Sri Ch. V. Ramesh, LDC and Sri P. Krishna, Accountant and Sri B.V.S.S.V. Prasad, LDC, who were equally responsible for the lapse, were issued Rule 16 charge sheet while the applicant was proceeded with a major Rule 14 charge sheet under CCS (CCA) Rules. The respondents have framed three articles of charge against the applicant and in the 3rd article of charge, they have stated that the applicant was convicted by the Court, which is factually incorrect. The respondents claim that out of the four missing cheques, one cheque was en-cashed for a sum of Rs.3.40 lakhs but they failed to get the forged signature on the cheque verified by the Forensic Laboratory. The duty of the applicant as a Peon is only to carry files/cheque books on instructions of the superiors and he has nothing more to do with the cheque books. The applicant sought 13 documents during the inquiry, which were not supplied by the Inquiry Officer. The applicant claims that he was arrested based on the complaint of the respondents and, therefore, the question of intimating the respondents about the arrest would not arise. The applicant also asserts that he was not under police custody for more than 48 hours. Besides, respondents have extended the suspension up to 11.10.2008 vide order dated 1.10.2008 which is incorrect. Applicant was acquitted in the criminal case on 22.12.2008 in CC No.679/2003 and, therefore, the respondents imposing the penalty of removal from service is illegal. Further, the Inquiry Officer has held the charges to be proved by taking extraneous documents into consideration. Finally, the applicant stated that due to removal from service, his family has

been driven to penury and, therefore, a humane view on the entire issue has to be taken. Lastly, the applicant contended that Articles 14 & 16 of the Constitution have been violated, by imposing the penalty of removal. The order of the Appellate Authority does not cover the points raised by the applicant.



5. Respondents have filed a reply wherein they have stated that the applicant was sent to the Bank on 2.11.2000 to collect two cheque books with 100 leafs each. Later, they found that four cheque leafs bearing the Nos.712997 to 713000 were missing in one cheque book when reconciliation of the cheques for the month of November, 2000 was done by them. The cheque bearing No.712997 was en-cashed by forging the signature of the Administrative Officer for a sum of Rs.3.40 lakhs. Therefore, the matter was reported to the Police, who reported on 8.2.2001 that the applicant was arrested on 4.2.2001 and sent to remand thereafter by the competent Court. The applicant has not intimated about the arrest or release on bail to the respondents. Consequently, the applicant was suspended w.e.f. 4.2.2001. Later, the police have reported on 9.8.2002 that the Forensic Lab has confirmed that there is similarity between the signature on the forged cheque and the writing of the applicant. Therefore, a charge sheet under Rule 14 was issued with three charges and the Inquiry Officer has held all the charges as proved vide his report dated 28.10.2004. Further, respondents state that the applicant did not present the cheque for Rs.981/- bearing the No.716662 dated 3.11.2000 for 2 days. Besides, applicant gave a false statement during the preliminary inquiry that he



did not go to the Bank. The Inquiry Office has given 11 out of 13 documents sought by the applicant during the inquiry and the rest 2 do not exist. The applicant was allowed to engage a Gazetted Officer as Defense Assistant and both of them cross-examined the witnesses listed in the charge sheet. Based on the Inquiry report, Disciplinary Authority imposed the penalty of removal from service on 18.3.2009 and the same was confirmed by the Appellate Authority. Principles of natural justice have been fully followed. Rules and law have not been violated and hence the O.A. needs to be dismissed.

6. Heard Dr. A. Raghu Kumar, learned counsel for the applicant and Sri A. Radhakrishna, learned Senior Panel Counsel appearing for the respondents, and perused the pleadings on record.

7. I. The applicant was working as a Peon in the respondent's organization. When he was sent to the respondents Bank to collect two cheque books, he came back and handed over both the cheque books, but in one of them, four cheque leaves were found to be missing. Out of the four missing cheque leaves, one cheque leaf bearing the No.712997 was en-cashed, with the forged signature of the Administrative Officer on 3.11.2000. Respondents had filed a police complaint and in response, police reported that on verification by forensic experts similarity in the writing of the applicant and the signature on the forged cheque were found. This contention of the respondents has not been refuted by the applicant by way of a rejoinder and hence the contention of the applicant that the signature

on the forged cheque was not got verified by forensic experts does not hold good.



II. Besides, respondents supplied 11 out of 13 documents sought by the applicant during the inquiry and the rest 2 could not be furnished as they did not exist. Further, in respect of other employees namely Sri Ch. V. Ramesh, LDC, Sri P. Krishna, Accountant and Sri B.V.S.S.V. Prasad, LDC, Rule 16 charge sheets were issued depending upon the nature of their involvement in the case and, therefore, we do not agree with the contention of the applicant that they have not been issued major penalty charge sheets. Disciplinary action is initiated based on the gravity of the charges and not as per the will and wish of the respondents or the applicant.

III. Further, applicant claims that he was acquitted in the criminal case in CC No.679/2003 and we found that the said acquittal was based on benefit of doubt. Even in case an employee is acquitted in a criminal case, it is well settled in law, that there is no bar for the Disciplinary Authority to proceed on disciplinary grounds since criminal and disciplinary proceedings are based on a different footing altogether.

In addition, we notice that the respondents have filed police complaint about forgery of the cheque and not against the applicant. In the process of investigation, the applicant was arrested by the police, which ought to have been reported to the respondents by the applicant. Not doing so is improper on part of the applicant.

IV. However, when we perused the charge sheet, the following three Articles of charge were framed against the applicant:

ARTICLE I

That the said Shri Ch. S.V. Raju while functioning as peon at All India Radio, Vijayawada during the period on 02-11-2000 was sent to SBI, Labbipet Branch for collection of 2 cheque books. Though he collected the cheque books from the Bank early on that day he has handed over the cheque books to cashier at 5 PM only. There was missing of 4 cheque leaves from the 2nd cheque book which has not been brought to the notice of any body, by him. Later it was found that cheque leaf No.712997 was encashed for Rs/3,40,000/-, on 03-11-200 from State bank of India, Labbipet Branch. The said Shri Ch. S.V. Raju on 03-11-2000 without producing the office imprest cheque No.0071662 dated 03-11-2000 for Rs.981/- for encashment at the SBI, Labbipet Branch he was given Rs.981/- to Cashier on 03-11-2000. But the cheque was encashed from the Bank only on 06-11-2000.

Thus by the afore said acts Shri Ch. S.V. Raju exhibited lack of integrity, devotion to the duty and acted in a manner unbecoming of a Government servant and there by contravened provision of rule 3 I (i) (ii) & (III) of CCS Conduct Rules 1965.

ARTICLE II

That the aforesaid Shri Ch. S.V. Raju while functioning in the aforesaid office as peon gave false statement to the inquiry officer on 18-04-2001 to the effect that on 03-11-2000 he has not gone to the Bank and he is not aware of the cheque encashed on 03-11-2000 for Rs.3,40,000/-. He has also stated that without verifying the facts from him he was handed over to Police for no fault of him. By the above said false statement he has exhibited his misconduct of unfaithfulness, dishonesty, untrustworthiness thereby contravened provision of Rules 3 I (i) (ii) (iii) of CCS Conduct Rules.

ARTICLE III

That during the aforesaid period and while functioning in the aforesaid office the said Shri Ch. S.V. Raju was arrested



on 04-02-2001 because of evidence of his accusation and produced him before III Metropolitan Magistrate, Vijayawada on 05-02-2001 for remand. The aforesaid Shri Ch. S.V. Raju has been charge sheeted in the court on 23-06-2003 for the offence under section 468, 471, 420 and 379 IPC. He has not intimated this office about his conviction. His acts amount to suppression of material information thereby contravened provisions of Rule 3 I (i) (ii) (iii) of CCS Conduct Rules.



We find that the 3rd Article of charge states that the applicant was convicted by the Criminal Court, which he has not intimated to the respondents. However, as is seen from above it is not true at the relevant point of time and only a charge sheet was filed in the competent Court. Therefore, the 3rd Article of charge is incorrect. Besides, the applicant has pointed out that certain documents relied upon by the Inquiry Officer were not listed along with the charge sheet. This is not permitted under law or under the rules. Any extraneous matter if it is to be considered by the authority concerned then the applicant has to be put on notice. The respondents have not rebutted this contention of the applicant and also the extension of suspension after the expiry of the due date. Not much has been said by the respondents in regard to the detention of the applicant in police custody beyond 48 hours, which was one another contention of the applicant.

V. Moreover, it is to be seen as to whether in the Memo of Distribution of work, the applicant working as a peon was expected to check the number of leaves in a cheque book on being handed over by the banker. Neither the respondents nor the applicant have

submitted any document throwing some light on the same. The applicant, as submitted by the learned counsel, is aged 67 and the OA was filed in 2015 and, therefore, calling for the documents at this stage would further procrastinate the case.



VI. Thus to conclude, we find that the respondents have framed an incorrect 3rd article of charge, Inquiry Officer relied on extraneous material, respondents have not come clear in regard to the responsibility of the applicant about verifying the number of cheque leafs in the cheque books handed over to him by the banker etc. On the part of the applicant, he has not filed a Review Petition to the competent authority, pointing out the inadequacies he has noticed in the charge sheet/ conduct of the disciplinary proceedings etc against him. Albeit it is not mandatory to file a review petition, but considering the contours of the case we would find it befitting to direct the petitioning authority to have a closer look at the case. Therefore, we direct the applicant to prefer a Review Petition to the competent authority, by stating the grounds covered by rules and law within a period of 15 days from the date of receipt of this order. The Competent Authority on receiving such a petition shall dispose of the same in accordance with rules and law, by attending to each of the contention of the applicant in the Review Petition. Time granted to the Competent Authority to dispose of the Review Petition to be preferred by the applicant is three months from the date of receipt of the petition from the applicant.

With the above direction, the O.A. is disposed of. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER



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