

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No.231/2015

Reserved on :17.03.2021
Pronounced on:25.03.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs. Hina P. Shah, Member (J)**

Bidha Ram Dagur Son of Mitthan Lal, aged 53 years, Resident of 23/10/ Madina Colony, Dholpur. Postal Assistant Post Office Sambhar Lake, Head Office.

...Applicant.

(Applicant in person)

Versus

1. Union of India through Secretary, Ministry of Communication and Information Technology Dak, Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Superintendent Post Office Jaipur Dehat Mandal, Jaipur.

...Respondents.

(By Advocate: Shri Rajendra Vaish)

ORDER

Per: Dinesh Sharma, Member (A):

In the present OA, the applicant has prayed for quashing the charge sheet dated 06.09.2011 (Annexure A/3), punishment orders dated 16.10.2014 and 23.02.2015 (Annexures A/1 and A/2) and for all consequential benefits. The applicant was charged for abusive behaviour, for allegedly claiming, in a raised voice, that he(the applicant) was more knowledgeable and educated than the superior

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officer and his (the superior officer's) father and he(the applicant) could get him(the superior officer) suspended. This, according to this charge-sheet, happened when the applicant came to see this officer, Assistant Superintendent of Post offices, Dholpur, in respect of issue of a duplicate copy of a KisanVikasPatra and to follow his request for a GPF advance. He was punished with compulsory retirement by order at Annexure A/1, This order has been revised in appeal to change the punishment from compulsory retirement to reduction of pay by two stages for 2 years with cumulative effect from the pay of Rs 15660+Grade Pay Rs. 4200 in Pay Band Rs.9300-34800. The main grounds for seeking these reliefs are:

- a) A major penalty charge sheet can be issued only when there are serious charges as mentioned in GoI Circular of 29.11.1972;
- b) The chargesheet has been issued by one authority (Superintendent Post Offices, Dholpur), Inquiry and Presenting Officer appointed by another authority(SP, Ganga Nagar) and punishment imposed by Superintendent Jaipur;
- c) Relevant documents, e.g. the KisanVikasPatra and the application for advance against the GPF (the documents with respect to which the incident of

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misbehaviour is alleged to have happened) have not been produced in inquiry.

d) Charges of bad behaviour (speaking in loud voice and indecent language) have not been proved by witnesses. Only previously recorded statements of the witnesses accepted as part of inquiry. The defence witnesses not examined and their evidence closed in a cursory manner.

e) The preliminary inquiry commenced even before the order for such inquiry was passed.

f) The applicant had no motive to behave badly since he had nothing to do with the KisanVikasPatra which belonged to a regular customer.

2. A reply has been filed by the respondents. It is stated that the preliminary inquiry was started on verbal orders dated 18.08.20011 (later confirmed by written orders on 23.08.2011. Since serious misconduct was found, Charge Sheet under Rule 14 of the CCS(CCA) Rules, 1965 was served. Since the applicant was transferred to ShriGanganagar to maintain discipline, the inquiry was conducted by Inquiry Officer and Presenting Officer appointed by the Superintendent of Post Offices, Ganganagar, who was the disciplinary authority for the

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applicant at that time. During the length of inquiry, on the applicant's own request, he was transferred to Jaipur (MFL) Division. The Inquiry Officer submitted the inquiry report on 17.05.2004, confirming all the charges framed against the applicant. A copy of the inquiry report was given to the applicant with direction to submit his representation, if any, against the report. After considering the representation filed by the applicant, and perusing all the documents, the penalty of compulsory retirement was awarded by the then disciplinary authority. The applicant filed an OA before this Tribunal against this punishment (OA 291/585/2014) which was disposed of with a direction to the CPMG to decide the appeal of the applicant with a reasoned and speaking order, "if the same has already not been decided by the Appellate Authority". The order in appeal, reducing the punishment from compulsory retirement to reduction of 2 stages of pay with cumulative effect, had been passed (on 23.02.2015) before a copy of that Tribunal's order was received in that office. It is stated to have been received in the office of Respondent No. 3 on 19.02.2015. The reply denies any irregularity in the conduct of the inquiry. The circumstances mentioned in circular dated 29.11.1972 are illustrative and not exhaustive and are intended to serve as guidelines. The reply quotes Rule 38 of Postal Manual Volume IV to support their contention about change of disciplinary authority on

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transfer. The reply states that the documents relating to Kisan Vikas Patra and GPF application are irrelevant since the charge is about misbehaviour with senior officer and not about these documents. The applicant has failed to produce his defence witnesses despite full opportunity given to him on various dates. All the departmental witnesses have confirmed their earlier statement in the presence of the Inquiry Officer and the applicant made no objection to this before the Inquiry Officer. Both the punishment orders are reasoned and speaking orders and all the allegations of non application of mind or prejudice are baseless.

3. The applicant filed a rejoinder reiterating his earlier claims that there is no rule to change the disciplinary authority on transfer and the Postal Manual has no application to the CCA Rules. He also alleged that the DPS HQ has prejudice against the applicant and his appeal should have been decided within 30 days of filing appeal. The direction of this Tribunal, in his earlier OA (OA 291/585/2014) was to the CPMG and therefore the decision of the DPS HQ in appeal is contrary to this Tribunal's earlier orders. The applicant also alleges mala-fides in the appointment of Inquiry Officer.

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4. The matter was heard on 17.03.2021. The applicant, appearing in person, prayed for quashing the chargesheet and the punishments repeating the charges mentioned in the OA. The learned counsel for the respondents argued that the scope of judicial intervention in disciplinary action cases was limited. This Tribunal had already decided this matter by asking the appellate authority to take a decision in this matter if not already taken. The decision of the appellate authority, already taken, is a well reasoned judgment and this Tribunal should not substitute their judgment for the judgments of the disciplinary and the appellate authorities when there are no apparent mala-fides or gross violation of any law or procedure. He cited judgments of the Hon'ble Supreme Court in **Rajasthan Tourism Development Corporation Limited and Another vs. Jai Raj Singh Chauhan** (2012) 2 SCC (L&S) 67, **Mihir Kumar Hazara Choudhury vs. Life Insurance Corporation and Another** (2017) 9 SCC 404 in support of his arguments.

5. After going through the pleadings and hearing the arguments, it is clear that the applicant has been punished for his alleged misbehaviour with a superior officer, which was found proved in an inquiry. We do not find the inquiry process or the inquiry report to be seriously flawed to warrant interference by us, since sufficient opportunity was

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provided to the applicant to defend himself. The applicant was given a copy of the inquiry report and his representation against it was considered before passing a reasoned and speaking order. We also find the order passed in appeal to be similarly reasoned and speaking order. It has sufficiently reduced the punishment from that of compulsory retirement to reduction in pay, with cumulative effect. We do not see any intentional violation of our order in OA No.291/585/2014, which was not even produced by the applicant with the OA and has only been quoted by the respondents in their reply. The applicant has thrown many charges of malice or mala fides against his superior officers (including the disciplinary authority and the Inquiry Officer) but has failed to substantiate them with any concrete evidence. The applicant claims that a change of disciplinary authority is nowhere provided in the CCS (CCA) Rules and therefore it is against the rules. We, however, cannot agree with this interpretation since we do not see any provision either expressly prohibiting it or making it mandatory to continue the same disciplinary authority from the beginning till end of any departmental action. The alleged misconduct, of loudly proclaiming superiority of knowledge and better education in comparison with a superior officer and his forefathers, and threatening the superior officer with suspension is certainly prima facie serious act of gross

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indiscipline. Therefore, non-inclusion of misconduct of this type in the annexure listing “types of cases which may merit action for imposing one of the major penalties” does not preclude a disciplinary authority from initiating action if they are satisfied such penalties are warranted. We have gone through the judgments produced by the learned counsel for the respondents. It would be most appropriate to reproduce one of the quotes (from **B.C.Chaturvedi vs. Union of India & Others** 1995 SCC (6) p. 762, para 18) made in para 20 of the judgment of the Hon’ble Supreme Court (in RTDC Vs Jai Raj Singh Chouhan case):

“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.”

6. For the reasons mentioned above, we do not see reason to quash the charge-sheet or to interfere with the

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orders passed by disciplinary and the appellate authorities.

The OA is dismissed. No costs.

(Hina P. Shah)
Member (J)

(Dinesh Sharma)
Member (A)

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