

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH  
KOLKATA  
O.A. No.350/01158/2020.

Date of order : This the 2<sup>nd</sup> Day of December, 2020.

**Hon'ble Mrs. Bidisha Banerjee, Judicial Member**  
**Hon'ble Dr (Ms) Nandita Chatterjee, Administrative Member**

Koushik Pal Chowdhury,  
Son of Muktinath Pal Chowdhury,  
Aged about 52 years,  
Working as Office Assistant under  
Superintendent of Post Offices,  
Nadia South Division,  
At present residing at ANPC Road, Burabazar,  
P.O. & P.S. Ranaghat,  
District Nadia, Pin – 741201.

..... Applicant.

By Advocate Mr C. Sinha

-Versus-

1. Union of India  
Service through the Secretary,  
Department of Posts,  
Ministry of Communication & I.T.,  
Dak Bhawan,  
New Delhi -110001.
2. The Chief Postmaster General,  
West Bengal Circle,  
Yogayog Bhawan,  
Kolkata – 700012.
3. The Postmaster General,  
Kolkata Region,  
Yogayog Bhawan,  
Kolkata – 700 012.
4. The Director of Postal Services,  
Kolkata Region,  
Yogayog Bhawan,  
Kolkata – 700 012.
5. Superintendent of Post Offices,  
Nadia South Division,  
Kalyani, Pin – 741235, Nadia.

.....Respondents.

By Advocate Mr. B.B. Chatterjee.



ORDER (ORAL)Ms Bidisha Banerjee, Member(J)

Heard Ld. Counsel for the parties and perused the records.

2. The issue that cropped up for determination in this O.A was the legality & correctness of a punishment order of recovery without conducting any proceedings.

3. At hearing Ld. Counsel for the applicant would submit that the applicant had asked for an open enquiry in regard to the charge sheet in question, but the same was denied to him and instead the respondents have straight away issued a punishment order of recovery of Rs.11,10,000/- from his pay in total 60 instalments amounting to Rs.18,500/- per month. His appeal has not however yet been disposed of. It was submitted that the recovery order should be quashed for the ends of justice.

4. Vehemently opposing the prayer Ld. Counsel for the respondents would submit that the application was premature, for the applicant preferred an appeal only on 17.11.2020 and rushed to this Tribunal to file this O.A on 20.11.2020, thus without allowing the appellate authority sufficient time to dispose of the appeal.

5. We heard learned counsel of the parties and noted as under:

(i) In O.K.Bhardwaj vs. Union of India & Ors. (2001) 9 SCC 180, the

Hon'ble Apex Court has held as under :

*"Even in the case of a minor penalty an opportunity has to be given to the delinquent employee to have his say or to file his explanation with respect to the charges against him. Moreover, if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. This is the minimum*



requirement of the principle of natural justice and the said requirement cannot be dispensed with."

(ii) In O.A.350/2016 and O.A.385/2017 this Tribunal had allowed the applications by quashing the penalty and appellate orders.

(iii) The quashing of penalty order and appellate order by this Tribunal in O.A. 350/2016 and 385/2017 were maintained by the Hon'ble High Court in WP(C) No.112/2019 & 113/2019 with additional direction as under :

"The orders of the tribunal setting aside the penalty imposed on Uday and Prasenjit are maintained. However, the writ petitioners shall be free to initiate regular departmental inquiry against Uday and Prasenjit by appointing enquiry officer(s). If a decision to that effect is taken, the proceedings shall resume from the stage till after submission of response by Uday and Prasenjit to the charge-sheets."

Therefore, the view of this Tribunal in terms of O.K.Bhardwaj vs. Union of India & Ors. without any proceeding the penalty of recovery cannot be imposed, was affirmed.

6. In the present O.A admittedly and indubitably the applicant has been penalised with recovery, without any formal proceedings. Disciplinary proceeding was initiated vide charge sheet issued dated 02.12.2019 which was dropped on administrative ground without prejudice to issue a fresh charge sheet. Whereafter a fresh disciplinary proceeding was initiated under Rule 16 of CCS(CCA)1965 Rules vide Memo dated 27.10.2020 alleging contravention of Rule 101A of Postal Manual, Vol.VI(Part-III) for failing to maintain devotion to duty under CCS(Conduct) Rules, 1964. The applicant by his letter dated 14.09.2020 sought for extension of time to submit his representation and by his detailed representation dated 25.09.2020 while denying the charges sought for exoneration therefrom. On 17.11.2020 the applicant even, asked for a full fledged enquiry as the punishment order dated 27.10.2020 was issued without any enquiry into the charges.



6. In view of the settled position that punishment of recovery cannot be imposed without any formal enquiry and factual denial of the charges require an open enquiry even in case of minor penalty proceeding, penalty order deserves to be quashed and it is accordingly quashed. The matter is remanded back to the disciplinary authority to act in accordance with law in terms of the decisions cited (supra).



7. The present O.A accordingly stands disposed of. No order as to costs.

**(DR NANDITA CHATTERJEE)**  
**MEMBER (A)**

**(BIDISHA BANERJEE)**  
**MEMBER (J)**