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OA No.82 of 2008

Hadu Pradhan Applicant
Versus
Union of India & Others Respondents

Order dated: 24/02/2010

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THE HON'BLE MR. C.R. MOHAPATRA, MEMBER (A)

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According to the Applicant he was appointed on 19.10.1973 as PA in Sambalpur HO. After having been posted at various post offices, he has been continuing as SPM, Belpahara since 2007. His case is that he received a Memorandum dated 22.5.2007 containing two Articles of charge under Rule 16 of CCS (CC&A) Rules, 1965, calling upon him to show cause. It is the case of the Applicant that as the Respondent No. 4 without making enquiry into the matter by way of giving opportunity imposed the punishment of recovery of Rs.10, 000/- in ten equal monthly installments @ Rs.1000/- p.m. starting from the salary of January, 2008, he has approached this Tribunal in the present OA seeking to quash the said order of punishment under Annexure-A/1 dated 14.01.2008.

2. Respondents filed counter opposing the contentions raised by the Applicant in his OA *inter alia* stating that this OA being premature is not maintainable as the applicant has approached this Tribunal without exhausting the opportunity of appeal available to him under the rules. Further stand of the Respondents that there is no provision for enquiry in the manner provided in Rule 14 of CCS (CC&A) Rules, 1965 in a Rule 16 of Rules *ibid* proceedings. Accordingly, Respondents prayed for dismissal of this OA. However, no rejoinder has been filed by the Applicant.

3. Heard Learned Counsel for both sides and perused the materials placed on record. From the record it is seen that as the applicant did not avail of the opportunity, on the prayer of the Applicant, the Division

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Bench of this Tribunal vide order dated 25.2.2008 granted liberty to the applicant to avail of the opportunity of appeal pointing out his grievance on merit as also prayer for grant of interim relief and in that event it was directed that till a decision is taken on the said appeal of the applicant, no recovery need be made from the pay of the applicant. Accordingly, on 24.3.2008, applicant preferred the appeal and during the pendency of this OA the said appeal of the applicant was rejected by the Respondents vide order dated 28th July, 2009 copy of which was produced by the Learned Counsel appearing for the Respondents through Memo dated 18.-2.2010. On perusal of the order it is seen that the Respondents rejected the appeal of the applicant on the ground of not preferring the said appeal within the period provided for filing the appeal instead of dealing with the points raised by the applicant in regard to the merit of the impugned order of punishment. For the above reason, Learned Counsel for the Applicant prays time to bring the said order within the purview of consideration of this OA through amendment as in a number of cases in past, such types of orders as in the instant case, have been annulled by this Tribunal, I do not feel it just and proper to grant time to the applicant to amend this OA by bringing the order of the appellate authority and thereafter take the same decision as has been taken by this Tribunal in earlier cases. Hence, the order of the Appellate Authority under Annexure-R/2 dated 28th July, 2009 is hereby annulled and the matter is remitted back to the Appellate Authority i.e. Director of Postal Services, Sambalpur Region, Sambalpur to consider the appeal preferred by the Applicant on merit and pass a reasoned order within a period of thirty days from the date of receipt of copy of this order. Till a decision is taken on the appeal, the recovery as ordered under Annexure-A/2 from the pay of the applicant shall not be given effect to.



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4. In the result, this OA stands allowed to the extent stated above.

There shall be no order as to costs.


(C.R. MOHAPATRA)
MEMBER (ADMN.)

