

4

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**O. A. No. 621 of 2013**

Cuttack this the 10<sup>th</sup> day of January, 2014

**CORAM**

THE HON'BLE MR. A.K. PATNAIK, MEMBER (J)  
THE HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)

.....  
Padmalochan Panda aged about 56 years, Son of Late Daitary Panda, At-Gud, PO. Anantapur, Dist. Balasore, Served as GDS BPM Gud at Anantapur SO.

.....Applicant

(Advocates: M/s.S.C.Puspak, A.K.Tarai, S.Nayak)

VERSUS

**Union of India Represented through -**

1. The Secretary cum Director General of Posts, Dak Bhawan, New Delhi-110 001.
2. The Chief Postmaster General, Odisha Circle, Department of Posts and Telegraph, Bhubaneswar, Dist. Khurda.
3. The Superintendent of Post Offices, Department of Posts, Balasore Division, Balasore.
4. The Director of Postal Services, Department of Post Office of the Chief Post Master General, Orissa Circle, Bhubaneswar, Dist. Khurda.

.....Respondents

(Advocate: Mr.D.K.Behera)

**O R D E R (Oral)**

**A.K. PATNAIK, MEMBER (JUDL.)**

A Charge sheet under Rule 10 of the GDS (Conduct and Employment) Rules, 2001 was issued to the applicant vide Memorandum dated 25.10.2007 giving him opportunity to submit his

*Aler*

to <sup>f</sup> reply committing omission and commission in his capacity of GDSBPM, Gud BO in account with Anantapur Sub Post Office in Balasore Head Post Office. The matter was enquired into. The IO submitted its report, copy of which was supplied to the applicant vide letter dated 31.10.2012. Applicant submitted his reply on 11.12.2012. After considering, the report of the IO, reply of the applicant dated 31.10.2012 and all other connecting <sup>ed</sup> records, the DA imposed the punishment of 'removal' from service vide order dated 11.12.2012. Applicant carried the matter in appeal dated 31.1.2013. The Appellate Authority rejected the appeal ~~of the appeal~~ by upholding the order of punishment imposed by the Disciplinary Authority and intimated the same vide letter dated 06.08.2013. Being aggrieved by the said action, the applicant approached this Tribunal in the instant OA in which he has prayed to quash the orders of the Disciplinary Authority and Appellate Authority dated 11.12.2012 and 06.08.2013 and pass further order, as would be deemed fit and proper.

2. Copy of this OA has been served on Mr. D.K.Behera, Learned Additional CGSC for the Union of India who accepts notice for the Respondents. Registry is directed to serve notice in terms of Sub rule 4 of Rule 11 of the CAT (Procedure) Rules, 1987 for onward transmission.

3. Heard Mr. S.C.Puspak, Learned Counsel for the Applicant and Mr.D.K.Behera, Learned Additional CGSC appearing for the

*Alles*

b

Respondents and perused the records. By drawing our attention to the appeal preferred by the Applicant dated 31.1.2013, provision of Rule 27 of the CCS (CC&A) Rules, 1965 and concluding part of the order of the Appellate Authority dated 06.08.2013 Mr.Puspak submitted that the applicant, pointing out the injustice caused in the decision making process of the matter submitted the appeal with hope and aspiration that his grievance would receive due consideration of the Appellate Authority but the appellate authority instead of giving due consideration to the same in the matter provided in Rule 27 rejected the appeal in cryptic manner and, therefore, he has approached this Tribunal in the instant OA seeking the aforesaid relief. On the other hand Mr.Behera submitted that the order of the Appellate Authority is exhaustive and the Appellate Authority reaching <sup>ed</sup> ~~ed~~ <sup>L</sup> the conclusion in a well-reasoned order. This being a case of misappropriation of Government money which is a serious offence, the applicant has rightly been imposed with the punishment of removal which needs no interference. Perused the appeal memo of the applicant dated 31.1.2013, order of the appellate authority dated 06.08.2013 vis-à-vis Rule 27 of the Rules, 1965. Rule 27 of Rules, 1965 reads as under:

**"27. Consideration of appeal**

(1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of rule 10 and having regard to the

*Wales*

circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in rule 11 or enhancing any penalty imposed under the said rules, the appellate authority shall consider-

- (a) Whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) Whether the findings of the disciplinary authority are warranted by the evidence on the record; and
- (c) Whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe and pass orders-
  - (i) Confirming, enhancing, reducing, or setting aside the penalty; or
  - (ii) Remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case

Provided that-

- (i) The Commission shall be consulted in all cases where such consultation is necessary;
- (ii) If such enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of rule 11 and in inquiry under rule 14 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 19, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 14 and thereafter, on a consideration of the proceedings of such inquiry and make such orders as it may deem fit:

- (i) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of rule 11 and an enquiry under rule 14 has been held in the case, the appellate authority shall make such orders as it may deem fit after the appellant has been given a reasonable opportunity of making a representation against the proposed penalty; and
- (ii) No order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance

Alles

with the provisions of rule 16, of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in rule 23, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable."

4. After going through the appeal and the order of the

Appellate Authority we are convinced that the order of the appellate authority is cryptic as in the order the appellate authority did not deal the points raised by the applicant. The order of the appellate authority also does not show that the consideration given by the appellate authority is in accordance with the provision of Rule 27 of the Rules, 1965. In view of the above, without expressing any opinion on the order of the Disciplinary Authority at this stage, we quash the order of the appellate authority dated 06.08.2013 and remit the matter back to Appellate Authority i.e. Respondent No.4 (Director of Postal Services, (HQ), Bhubaneswar to give a fresh consideration to the appeal of the applicant dated 31.1.2013 and communicate result thereof in a well-reasoned order at an early date preferably within a period of 90(ninety) days from the date of receipt of copy of this order. In the result, this OA stands disposed of by leaving the parties to bear their own costs.

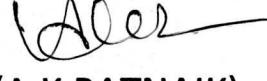
5. As prayed for by Mr.Puspak, Learned Counsel for the Applicant copy of this order be sent to Respondent No.3&4 by speed post

*Allee*

for compliance at his cost for which he undertakes to furnish the postal  
requisite within three days hence.

  
(R.C.MISRA)

Member(Admn.)

  
(A.K.PATNAIK)

Member (Judl.)