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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application Nos.119/2007

Date of decision: 25-10-2010

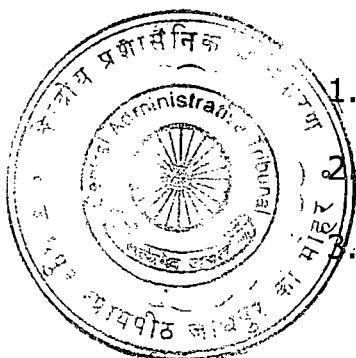
Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

Hon'ble Mr. Sudhir Kumar, Administrative Member.

Shri Preetam Singh, S/o Shri Heera Singh, by caste Baghela (Thakur) aged about 59 years approximately, resident of -Gadiya colony, Oil Factory, Baran, (Rajasthan)

Applicant.

Rep. By Mr. M.K. Trivedi : Counsel for the applicant.



Versus

The Union of India, Ministry of Communication, through its Secretary, Postal Department, Dak bhawan, New Delhi -1
The Director General (Post) Dak Bhawan, Sansad Marg, New Delhi 110 001
The Assistant Director General (Vig. Ist) Government of India, Ministry of Communication and I.T., Department of Post, Dak Bhawan, Sansad Marg, New Delhi 110 001

: Respondents.

rep. By Mr. M. Godara Proxy Counsel for
Mr. Vinit Mathur, Counsel for the respondents.

ORDER

Per Mr. Justice S.M.M. Alam, Judicial Member.

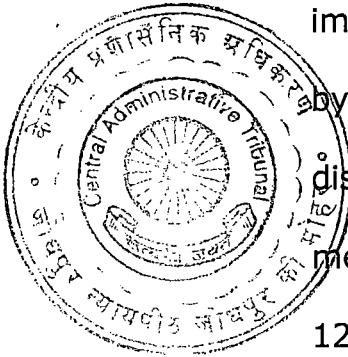
Applicant Shri Preetam Singh, ex-superintendent of Post Offices, Churu (Rajasthan) has preferred this original application claiming the following reliefs:

“ That the applicant prays that the dismissal order dated 16.06.2004 (Annex. A/1) passed by the respondent no. 2 and the order dated 19.02.2007 (annex. A/4) passed by the respondent No.3 may kindly be quashed and set aside with all consequential benefits and this Original application may kindly be accepted and allowed with heavy costs.”

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2. The brief facts of the case are as follows:

The applicant was posted as Superintendent of Post Offices, Churu. On 24.12.2003, the Director General (Posts) , New Delhi issued a memorandum No. 20-3/CBI/99- Vig under the provisions of Rule 19 of the Central Civil Services, (Classification, Control and Appeal) Rules, 1965 (hereinafter will be called as CCS(CCA) Rules, 1965) proposing to award a penalty in respect of a criminal charge on the basis of which the applicant was convicted by a court of law. The memorandum further speaks that the applicant was not a fit person to be retained in service and the gravity of charges required imposition of major penalty. Accordingly, the competent authority by way of memorandum, proposed to impose the penalty of dismissal from service against the applicant. In response to the memorandum the applicant submitted his representation on 12.01.2004 explaining the circumstances appearing against him in the criminal case and requested the department to re-call the proposed notice imposing penalty of dismissal from service. However, the points raised by the applicant in his representation were neither considered nor discussed by the competent authority and the representation was rejected, and, vide order dated 16.06.2004 (Annex. A/1), the applicant was ordered to be dismissed from service. Being aggrieved by the above order the applicant presented a revision petition under Rule 29 of the CCS (CCA) Rules, 1965, before the President of India challenging the validity of the order dated 16.06.2004 (Annex. A/1). Initially the department did not forward the representation to the President of



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India. But after several representations the department forwarded the revision petition and for a long time no order was passed on the revision petition and as such the applicant preferred O.A. No. 95/2006, which was disposed of on 05.04.2007, in which a direction was issued by the Tribunal directing the respondents to dispose of the revision petition of the applicant within a period of three months from the date of receipt of a copy of the order. By the said order the applicant was also given liberty to approach the Tribunal again if he felt aggrieved by the out come of his revision petition. However, it appears that the revision petition was disposed of by respondent no. 3 during the pendency of the O.A. No.95/2006. According to the applicant this fact was not communicated to him by the respondents. Thus the applicant, being aggrieved by the order dated 16.06.2004 (annex. A/1) and the order dated 19.02.2007, had preferred this Original Application.

3. After filing of the O.A, notices were issued to the respondents and in compliance of the notices the respondents appeared through lawyer and filed reply to the O.A. In the reply, the case of the respondents is that the order dated 16.06.2004, dismissing the applicant from service was passed by the competent authority under powers conferred on him as per Rule 19 of the CCS(CCA) Rules, 1965, as the applicant was convicted by a court of law vide order dated 18.01.2003 in a criminal case lodged against him for an offence under Sec. 7, 13 (2) of Prevention of Corruption Act,

1988. After conviction, the Disciplinary Authority issued a show cause notice on 24.12.2003, asking the applicant to make a representation against the proposed penalty of dismissal from service under Rule 19 (i) of the CCS (CCA) Rules, 1965. On receipt of notice, the applicant submitted a representation on 12.01.2004 and thereafter the competent authority, after due consideration of the representation passed an order of dismissal from service vide communication dated 16.06.2004 (Annex. A/1). Against the said order the applicant preferred revision petition. But the same was also rejected vide order dated 19.02.2007 (annex. A/4). It is stated that both the orders, which are under challenge, were passed by the competent authority after complying with the provisions of law as laid down under rule 19 (i) of the CCS (CCA) Rules, 1965, and after giving him full opportunity to the applicant to represent his case. And therefore the impugned orders are just and proper and passed in accordance with law. It is stated that the applicant was convicted in the criminal case, and as such he attained disqualification for remaining in government job, and so he was rightly dismissed from service. Thus the respondents have defended the action of the authorities whereby the penalty of dismissal from service was imposed upon the applicant.

4. The contention of learned advocate Mr. M.K. Trivedi, appearing for the applicant is that the impugned order, whereby the applicant was dismissed from service, has been passed without issuing any charge sheet and without initiating any departmental

inquiry against the applicant. ¹⁵ He further submitted that in this case not even a skeleton inquiry as required under Rule 19 (i) of CCS(CCA) Rules, 1965, was done and therefore, there was no material before the disciplinary authority for imposing the penalty of dismissal of the applicant from service.

5. On the other hand Mr. Godara, proxy counsel for the respondents submitted that under Rule 19 (i) CCS (CCA) Rules, 1965, disciplinary inquiry is not a must.

6. In view of rival contentions of the parties, the only point to be decided in this case is whether the issuance of charge sheet followed by disciplinary inquiry is necessary for imposing penalty under Rule 19 (i) CCS (CCA) Rules, 1965. For better appreciation we would like to quote Rule 19 of the above mentioned rules which reads as under:

19. Special procedure in certain cases

Not notwithstanding anything contained in Rule 14 to Rule 18 –

- (i) **where any penalty is imposed on Government servant on the ground of conduct which has led to his conviction on a criminal charge or**
- (ii) **where Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonable practicable to hold an inquiry in the manner provided in these rules, or**
- (iii) **where the President is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules.**

the Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit:

[Provided that the Government servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under Clause (i)

From a reading of Rule 19, it is clear that where any penalty is imposed on a government servant on the conduct which led to

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his conviction on a criminal charge, the disciplinary inquiry is not mandatory. However, the rule requires that the government servant should be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i).

7. It has been submitted by the learned advocate of the respondents, that the applicant was given an opportunity of making representation on the penalty proposed to be imposed and this fact is not denied. In support of his argument, he referred to para 4.1 of the application which is as follows:



" that this Original application is being filed by the Applicant inter alia stating that the Director General (Posts) New Delhi (Non-applicant no. 2) has issued a memorandum No. 20-3/CBI/99 Vig. Dated 24.12.2003 in terms of Rules 19 of the Central Civil Services (Classification Control and Appeal) Rules, 1965 proposing to award a penalty in relation to gravity of the Criminal charges which has led to the conviction of the petitioner by the Court of law.... "

The learned advocate further submitted that in reply to the memorandum, the applicant submitted a detailed representation on 12.01.2004. In support of this fact he referred to para 4.2 of the application which runs as follows

from A

" that a comprehensive details representation dated 12.01.2004 had been submitted explaining each and every point with a request to either re-call the proposed so called notice or held the same in abeyance for the sake of proper justice "

The learned advocate further submitted that the above statements of the applicant establish that requirement of law as laid down under 19 (i) of CCS (CCA) Rules, 1965, has been fully complied with. He further submitted that perusal of impugned

order dated 16.06.2004 (annex. A/1), as well as revision order dated 19.02.2007 (Annex. A/4) will show that as the applicant was convicted in a criminal case filed by CBI under Sec. 7, 13 (2) read with Sec. 13 (1) (b) of the Prevention of Corruption Act, 1988, as well as the available material, the competent authority, after considering the gravity of the offence, held that the applicant was not a fit person to be retained in service.

8. We have carefully perused Annex. A/1 dated 16.06.2004 and A/4 dated 19.02.2007. Both the orders are exhaustive and have dealt with all the aspects. On consideration, the authorities came to the conclusion that the retention of the applicant in service was not in the interest of the department since the applicant was convicted on the charges of corruption.

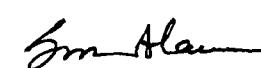
9. The learned advocate of the applicant has placed reliance upon the decision of the Apex Court given in the case of **Mahabir Prasad Santosh Kumar vs. State of UP and others** [AIR 1970 SC 1302]. A perusal of the decision shows that the issue involved in that case is not relating to Rule 19 of the CCS (CCA) Rules, 1965, and hence the same is not applicable to the facts of this case. The learned advocate also relied upon Item No. 12, relating to "special procedure in certain cases" [page 319 of digest on disciplinary proceedings] and contended that in respect of cases falling under Rule 19 of CCS(CCA) Rules, 1965, a skeleton inquiry is necessary. In support of his contention, he relied on para 2 ,

which states that a copy of skeleton enquiry report should be furnished along with the show cause notice.....". The learned advocate of the applicant also relied on Para 3, which says that if the disciplinary authority, in the peculiar circumstance of a case, decides to pass an order without holding an inquiry, reasons for the same are to be recorded as to why disciplinary inquiry is not necessary.

10. We have already found that the authorities have given satisfactory reasons for not holding the departmental inquiry, as the applicant was convicted on the charges of corruption and his retention in government service was not in the interest of the department. Under these circumstances, we do not find any illegality or irregularity in the impugned orders.

11. On the basis of the above discussion, we have come to the conclusion that this O.A has got no merit and the same is hereby dismissed with no order as to costs.


 { Sudhir Kumar }
 Administrative Member.


 { Justice S.M.M. Alam }
 Judicial Member.

Jsv

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