

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.183/2010

Date of decision:26.11.2011

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER,
HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER.**

Om Prakash S/o Shri Shyam Lal, by caste Meghwal, aged 47 years,
R/o village Bana, Tehsil Anoopgarh, District Sri Ganganagar, as a
B.P.M. under working respondent No.5.

: Applicant

Mr. S.P. Singh, counsel for applicant.

Versus

1. Union of India through the Secretary, Ministry of Communication and Information Technology, Department Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Post Master General, Rajasthan Western Region, Jodhpur.
4. The Superintendent of Post Offices, Sri Ganganagar Division, Sri Ganganagar.
5. The Chief Post Master, Head Post Office, Sri Ganganagar.

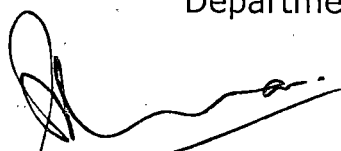
: Respondents

**Mr. Ankur Mathur, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.**

ORDER (ORAL)

Per Sudhir Kumar, Administrative Member

We have heard both the counsels in great detail and examined the pleadings. In this case, the Disciplinary Authority imposed punishment against the applicant on the basis of three charges for temporary misappropriation of Government money and unauthorized absence etc. having been concluded to have been proved. The Superintendent of Post Office, Sri Ganganagar, in the enquiry report dated 09.08.2006 under the Postal Department Gramin Dak Sewak (Employment & Conduct) Rules,



2
2001, Rule 9, ordered that the applicant was to be removed from the post of GDS BPM, without any stigma, and without prohibition from future employment.

2. Thereafter the applicant filed an appeal. His appeal was considered by the Director of Postal Services, Rajasthan West Region, Jodhpur, and through order dated 09.06.2008 (Annexure-A/3), the Appellate Authority came to the conclusion that the ends of justice would be met if the punishment/penalty is reduced to withholding one of his increments of TRCA for three years, with cumulative effect, and the earlier orders of the Disciplinary Authority were set aside. Almost one year and three months after this, the Post Master General, Rajasthan West Region, Jodhpur, as the Revisional Authority, thought it fit to issue a notice to the applicant through Annexure-A/4 dated 03.09.2009, and ask the applicant to show cause within 15 days of the notice as to why the enhanced punishment of removal from employment, which was earlier imposed upon him by the Disciplinary Authority, should not be imposed on him once again.

3. The applicant represented against this through his representation dated 14.09.2009, which was forwarded by the Superintendent of Post Offices, Sri Ganganagar, and ultimately received by the Revisional Authority on 14.09.2009. After considering that representation, the Revisional Authority passed the impugned order dated 06.11.2009 (Annexure-A/1), restoring the punishment of the applicant's removal from service.



4. It is seen that the only reason why Annexure-A/4, dated 03.09.2009, was issued suo moto by the Post Master General Rajasthan West Region, Jodhpur, as the Revisional Authority, was that the punishment of stoppage of one increment in TRCA for three years was not one of the punishments indicated in Rule 9 of the Postal Department Gramin Dak Sewak (Employment & Conduct) Rules, 2001, and therefore, he had found the Appellate Authority's orders to be unworthy and liable to be set aside. However, in between the date of the order of the Appellate Authority, and the notice of the Revisional Authority dated 03.09.2009, the punishment of stoppage of his TRCA increment, though it may have been wrongly imposed, appears to have already visited ^{the} ~~to~~ applicant, and the respondents have not stated that the orders of the Appellate Authority were not given effect to.


5. Therefore, once a punishment imposed upon the applicant has already been given effect to, the Revisional Authority could not have issued the suo moto notice after fifteen months for enhancement of the punishment, and cancellation of the punishment already imposed, and given effect to in respect of the applicant, and could have proceeded ahead to pass the impugned order dated 06.11.2009 (Annexure-A/1), since this amounts to double jeopardy. We are also conscious that in a slightly parallel case, in **State of Bihar vs. Sheo Narayan Singh**: AIR 1997 SC 711: 1997 (2) JT10: 1997(3) SCC 46, the Hon'ble Apex Court had held that suo-moto powers of revision cannot be exercised when

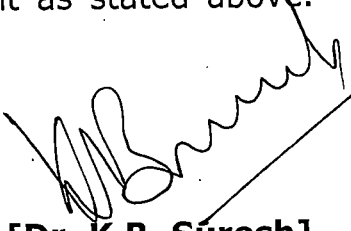


4
once an officer had been exonerated by the Appellate Authority,
by setting aside the orders of the Disciplinary Authority.

6. Therefore, the impugned order dated 06.11.2009 (Annexure-A/1) is set aside, and since, in the facts and circumstances of the case, the quantum of punishment imposed by the Appellate Authority appears to be reasonable, even though the Rule indicated by him appears to have been wrong or incorrect rule under which the punishment was imposed, the order of the Appellate Authority is upheld as to its effect on the service of the applicant. The consequences of Annexure-A/1 being set aside would be made available to the applicant, for being reinstated in service, but without back wages for the period when the respondents did not avail of his services, within two months from the date of receipt of a copy of this order by the respondent authorities.

7. The O.A. is allowed to the limited extent as stated above.
No order as to costs.


[Sudhir Kumar]
Administrative Member


[Dr. K.B. Suresh]
Judicial Member