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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**JODHPUR BENCH, JODHPUR**

**OA No. 297/2011**  
**Jodhpur this the 18<sup>th</sup> day of October, 2013.**

**CORAM**

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and  
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Jena Ram Mali S/o Shri Lalu Ram aged about 35 years R/o, Village and Post Amar sagar District Jaisalmer (Raj.) presently working on the post of postman at Head Post Office Jaisalmer.

.....Applicant

**(Through Adv. Mr S.K. Malik)**

**Versus**

1. The Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. Director Postal Services, Rajasthan Western Region, Jodhpur, Rajasthan.
3. Superintendent of Post Offices, Jodhpur Division, Jodhpur.

..... Respondents

**(Through Adv. Ms K. Parveen)**

**ORDER (Oral)**

**Per Justice Kailash Chandra Joshi, Member (J)**

The applicant, Shri Jena Ram has filed this application under section 21 of the Central Administrative Tribunal Act, 1985 to challenge the legality of the order of punishment/penalty passed by Disciplinary Authority for reducing his basic salary for two years by reduction of pay by one stage for a period of 2 years without affecting future increments after two years (Annex. A/2) and

Annex. A/3 reducing his basic salary for two years by reduction of pay by one stage for a period of 5 years without affecting future increments after five years, passed by Appellate Authority.

2. The necessary facts as emerge from the pleading of the party are that the applicant while working on the post of Postman was issued impugned memo of charge dated 03.08.2009 wherein the allegation leveled against the applicant was that while working on the post of Postman at Head Post Office, Jaisalmer, he submitted sick certificate from 20.10.2006 to 30.10.2006 to Postmaster Jaisalmer Head Post Office in the name and forged signature of Dr V.K. Verma, Medical Officer, Government Sri Jawahar Hospital, Jaisalmer and forged signature fitness certificate dated 21.10.2009 was submitted to the Postmaster on 23.10.2006. After due inquiry the Inquiry Officer submitted his report against the applicant and he was punished by reducing his basic salary for two years by reduction of pay by one stage for a period of 2 years. Aggrieved by this punishment order, the applicant filed an appeal to the Appellate Authority and Appellate Authority issued notice to the applicant for enhancement of punishment to that of compulsory retirement to which reply was filed by the applicant. The Appellate Authority while enhancing the punishment, awarded penalty of reducing the basic salary for five years by reduction of pay by one stage for a period of 5 years without affecting future increments after five years. The applicant being aggrieved by the

order of the Appellate Authority challenged the legality of the order on the following grounds :

- (i) The charge sheet is vague and not specific one. It does not disclose as to who has forged the signatures of Dr Verma. Moreover, the charge sheet is issued after a period of 3 years of the incidence.
- (ii) The medical sick & fit certificate of all the employees of Head Post Office Jaisalmer including Postmaster bears the same signatures as were on medical certificates of the applicant.
- (iii) The Inquiry Officer recorded his finding that the applicant after putting his signatures on SD2 & SD3 and presenting himself before the doctor, has not obtained the signature of Doctor and these documents were given to him by another person and on those documents the seal and signatures of Doctor were forged, where as charge is totally different.
- (iv) The applicant has been punished for the misconduct other than for the charge in the charge sheet.
- (v) The respondents cannot fix lower pay than what was drawn by the Applicant.
- (vi) The punishment has been imposed with ulterior and oblique motive.
- (vii) The Inquiry Officer relied upon the evidence of Dr Verma SW 1 whereas on the evidence of Dr V.K. Verma, the

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finding cannot be recorded regarding the forged signature of the Doctor.

(ix) And non-compliance of three ingredients as provided in Rule 27(2) of CCS (CCA) Rules, 1965.

The applicant has annexed 10 documents in support of his application.

3. By way of counter, the respondent-department denied the grounds as alleged in the application and also contended that there was no malafide action on the part of the Inquiry Officer or Appellate Authority and it has been contended that the applicant submitted a forged document before the Postmaster, Jaisalmer HO and Dr V.K. Verma, M.O., Rajkiya Shri Jawahar Chikitsalaya, Jaisalmer while depositing in the inquiry clearly stated that the sick certificate dated 20.10.2006 to 30.10.2006 and fit certificate dated 21.10.2006 produced by the applicant did not bear his signatures and signature on the sick and fit certificate was entirely different to the signature put by him on his statement. The competent authority after following due process of inquiry imposed the penalty and the Appellate Authority after giving sufficient opportunity of hearing passed the order in appeal. It has been further averred in the reply that the charges against the applicant cannot be said to be vague and they are clear and specific regarding submitting of the forged medical certificates. The

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investigation procedure against the other persons of the Jaisalmer Post Office is under process. The charges leveled against the applicant were proved, therefore, looking to the gravity of misconduct penalty was imposed by the Disciplinary Authority as well as Appellate Authority.

4. Heard both the parties.

5. Counsel for the applicant contended that there was no charge against the applicant to the effect that just to avoid training programme the applicant submitted forged medical certificate but appellate authority while punishing the applicant recorded his finding that the applicant submitted forged documents which is to avoid training programme for which the applicant was directed to attend.

6. Counsel for the respondents contended that the main charge against the applicant is regarding submission of the forged documents and the reference of the training programme has been made by the appellate authority just to discuss the charge against the applicant and it cannot be said that the applicant was held guilty for some other charge and the reference of the training programme had only a bearing on the charge leveled against the applicant in the charge sheet.

7. In support of his contentions counsel for the applicant relied upon the judgment reported in ATC Vol. 14 of 1990 State of

Haryana v. Om Prakash (SC) p. 823. We have perused the judgment. The facts in this judgment are entirely different. In this case merely having a reference in the appellate order regarding training programme, it cannot be said that the applicant was held guilty for non-attending of the training programme. Therefore, the contentions raised by counsel for the applicant do not bear any force.

8. Counsel for the applicant further contended that no one can be judge in his own case and Dr V.K. Verma cannot be a substantial evidence against the charge of the forged signature of himself. The Inquiry Officer and Appellate Authority committed a grave mistake while relying upon the statement of Dr V.K. Verma. He relied upon the judgment of the Hon'ble Supreme Court reported in AIR 1984, Arjun Chaubey v. UOI & Ors p.1356.

9. Per contra counsel for the respondents contended that Dr V.K. Verma was the best evidence available with the respondent-department and while deposing in the inquiry he stated that documents, sick and fit certificates do not bear his signature and it cannot be said that in this case that one has become a judge of his own case as evidence of Dr V.K. Verma was proved by the Inquiry Officer.

10. Counsel for the applicant further contended that the Appellate Authority while passing the order of enhanced

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punishment must consider that whether the procedure has been followed by the Inquiry Officer in conducting the inquiry but this mandatory point has not been considered by the Appellate Authority. In support of his argument he relied upon the judgment of Hon'ble Apex Court reported in 1986(1) SLR page 470, R.P. Bhatt v. UOI & Ors. In this judgment it has been held that the order of appellate authority must indicate due application of mind and order not disclosing due application of mind can be termed as illegal.

11. Per contra counsel for the respondents contended that the Disciplinary Authority as well as Appellate Authority passed the order after considering all relevant material available on record, therefore, the order of penalty cannot be termed as illegal.

12. We have considered rival contentions and perused the above judgment. In the present case it cannot be said that the Disciplinary or Appellate Authority have passed the order without application of mind because each and every part of the evidence is discussed by the Disciplinary as well as Appellate Authority and it is settled principle of law that tribunals or courts cannot sit as appellate authority over the order of disciplinary or appellate authority unless and until a grave procedural mistake has been committed by the disciplinary or appellate authority or the right of the applicant is being prejudiced by the non-compliance of the

procedure or by way of non-providing of any material document then only such orders can be interfered with.

13. Although, the applicant submitted that this inquiry has been conducted by some higher authority than the prescribed one but the applicant himself took part in the proceedings and filed appeal and further vide Annex. A/10, in response to the show-cause notice of the Appellate Authority, he submitted that he is shameful for his misbehaviour and for filing of forged document. Therefore, in our considered view no material illegality or irregularity has been committed by the Inquiry Officer in conducting the inquiry or by the Disciplinary and Appellate Authority in the award of the penalty.

14. In view of the discussions made hereinabove, the application lacks merit and is, therefore, dismissed with no order as to costs.

  
(MEENAKSHI HOOJA)  
ADMINISTRATIVE MEMBER

  
(JUSTICE K.C. JOSHI)  
JUDICIAL MEMBER

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