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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No257/2012

Jodhpur, this the 23rd day of September, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

1. Babu Lal Bhandari s/o Sardarmal Bhandari, aged about 54 years, r/o Vill-Bhandarion Ka Bas, Post Palasani, District Jodhpur, Office address-GDSBPM (under put off duty) Palasani Post Office, Banad.

.....Applicant

Mr.S.P.Singh, counsel for applicant

Vs.

1. Union of India through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur
3. The Director, Post Master General, Western Region, Jodhpur
4. Sr. Superintendent of Post Offices, Jodhpur Division, Jodhpur.
5. Asst. Supt. Of POs, East Sub Dn. Jodhpur.

...Respondents

Ms. K.Parveen, counsel for respondents

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

By way of filing the present OA, the applicant has challenged the memo dated 9.8.2011 (Ann.A/1) by which the appeal preferred

by him has been rejected and, therefore, prayed for the following reliefs:-

- (i) That the impugned order vide Memo No. STA/P/52-19/2010 dated 9.8.2011 forwarded by respondent No.3 (Annexure-A/1) may kindly be declared illegal, unjust and deserves to be quashed and set aside.
- (ii) By writ, order or direction the respondent may kindly be directed to allow the applicant to join his duty and to pay all consequential benefits to the applicants.
- (iii) That any other direction or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded to the applicant.

2. Briefly stated, facts of the case as averred by the applicant, are that at the time when he was posted as Gramin Dak Sewak Branch Post Master (for short, GDSBPM), Palsani Post Office, the Sarpanch did not submit the list of NEREGS workers for the last six months and due to heavy amount due, the amount was not paid in time as the same was not made available by the respondents. The respondents directed to take amount but to carry amount is the duty of Cash Overseer and was also life threatening to the applicant. The Sarpanch in consonance with respondent No.5 conspired to usurp the amount and visited the post office and without going into facts and circumstances ceased all documents and took them all and brought it to the Head Office, Jodhpur. Disciplinary Committee was convened and the applicant was placed on 'put off duty' w.e.f. 22.6.2009. The applicant made representation on 25.6.2009 but the same was kept pending for more than six months. Thereafter the

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applicant preferred appeal on 15.12.2009 and also filed OA No.242/2011 before this Tribunal against rejection order whereby it was stated that the appeal ought to have preferred before DPS. This Tribunal directed the respondents to decide appeal of the applicant within a period of two months and subsistence allowance may be enhanced in accordance with law. In compliance of the order of this Tribunal, the respondents have decided the appeal of the applicant vide order dated 9.8.2011 which is under challenge in the present OA.

3. By way of filing reply, the respondents have contended that on confirmation of complaint regarding irregularities in payment of MGNREGA labourers by the applicant, Assistant Superintendent of Post Offices, Jodhpur has placed the applicant under 'Put Off Duty' vide memo dated 22.6.2009 which was confirmed by SSPO, Jodhpur vide memo dated 6.7.2009. On the basis of enquiry report of ASPO, the applicant was issued a charge sheet under Rule 10 of GDS (Conduct and Employment) Rules, 2001 and on denial of charges, an oral inquiry was ordered and he was placed under 'put off duty'. The applicant preferred appeal before the Director, Postal Services, Jodhpur and the same was rejected by the Appellate Authority according to the relevant provisions of law.

4. Heard the counsel for both the parties. Counsel for the applicant contended that the applicant has been put off duty w.e.f. 22.6.1009 which was not intimated and the applicant worked till 24.6.2009. The put off duty order was handed over on 18.7.2009 and

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alternative arrangement to run the Post Office was handed over to Shri Nakhata Ram. The 'put off duty' order passed by the respondents is ineffective as the effective order is not passed. During the course of arguments, the counsel for the respondents contended that after issuing order of 'put off duty' against the applicant, the Disciplinary Authority has reviewed the put off duty case of the applicant from time to time and issued charge sheet dated 21.2.2011 because in order to initiate disciplinary action against the applicant, collection and screening of so many witnesses and evidence were involved. Therefore, 'put off duty' order passed by the Disciplinary Authority cannot be interfered at this stage. It is further stated by the counsel for the respondents that legality of the charge sheet has not been challenged by the applicant and only put off duty has been challenged being in violation of mandatory provisions of the relevant rules.

5. We have perused averments made in the OA as well as in the reply of the OA. The applicant has not challenged legality of the charge sheet or disciplinary proceedings but only challenged the order passed with regard to the put off duty and payment of subsistence allowance. The applicant has also not challenged the departmental proceedings initiated vide memo dated 21.2.2011.

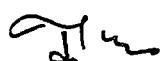
6. We have considered the rival contentions of the parties. In our considered view, when the disciplinary proceedings have been initiated after issuing order of 'put off duty' there is no reason to

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interfere with the order Ann.A/1 passed by the appellate authority. Accordingly, the OA lacks in merit because the order has been issued regarding 'put off duty' after considering relevant evidence available against the applicant and the departmental proceedings have been initiated later on. However, looking to the fact that the order has been issued on 22.6.2009, therefore, the respondent department is directed to conclude the inquiry within a period of six months from the date of receipt of copy of this order.

7. With these observations, the OA stands disposed of with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

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