

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.316/2012

Jodhpur this the 27th day of November, 2013

CORAM

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

Prema Ram Verma, aged about 44 years S/o Shri Babu Lal, by caste Verma (Sargara), R/o village & post Khimel, via Rani, Tehsil Bali, District Pali (Raj.) Last employed as Gramin Dak Sewak (BPM), Khimel, Rani.

.....Applicant

Mr. Narpat Singh, counsel for applicant.

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post India, Government of India, New Delhi.
2. The Post Master General, Western Rajasthan Region, Jodhpur-342001 (Raj.).
3. The Superintending of Post Offices, Pali Division, Pali Marwar-306401 (Raj.).

.....Respondents

Smt. K. Parveen, present for respondents.

ORDER (Oral)

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

By way of this application, the applicant has challenged the legality of the order of removal passed by the competent authority as well as the order of Appellate Authority and the Review Authority, by which the appeal and the review application filed by the applicant were dismissed by the competent authority.

2. The short facts of the case as averred by the applicant are that the applicant was employed as a Gramin Dak Sewak (BPM), Khimel, Rani and during the course of his service the applicant was served a charge sheet under Rule 10 of the Rural Dak Sewak (Aacharan Avam Niyozan) Niymawali, 2001 alleging inter-alia that the applicant while working on the post of Gramin Dak Sewak, Branch Dakpal, Khimel, Rani, District Pali in the year 2006, did not deposit certain amounts of the customers of the Postal Department in their recurring deposit accounts on the day when the same was given by them. However, subsequently the entire due amount was found to be deposited in their accounts with due interest and no financial loss was either caused to the customers or to the Postal Department. Thereafter, an inquiry was conducted and the Inquiry Officer issued a letter dated 13.09.2007 and fixed the date of inquiry on 28.09.2007 at Sub Post Office, Rani, District Pali. In pursuance to that letter, the applicant appeared before the Inquiry Officer on 28.09.2007 and while denying the charges leveled against him, he requested to proceed with the inquiry. The Inquiry Officer fixed the matter on 12.10.2007. Thereafter, due to administrative reasons, the inquiry was not held on 12.10.2007, however, the same was held on 19.10.2007 and on that day the applicant could not nominate his defence personal to defend his case and the inquiry was adjourned to 19.10.2007. It has been further averred in the application that on 19.10.2007, the applicant was under tremendous mental depression and not under the normal status of his mind for certain period because his wife was seriously

ill and his mother was also suffering from multiple disease and he was only person to look after them. In those facts and circumstances, the applicant was made to understand at the instance of the respondents that the alleged mistakes mentioned in the memorandum are of not serious nature and in case of admitting the same, he would get rid of long procedure of the departmental enquiry and in position of any major punishment and instead he would be exonerated after imposing the minor penalty. The applicant was never given any kind of information, warning or notice by the Inquiry officer or the respondents that in case of admitting the charges he might be removed from the service. Thus, on admission of the charges, the Inquiry Officer submitted his inquiry report holding the applicant guilty for the offences leveled against him. Thereafter, the Disciplinary Authority while relying upon the finding of the inquiry office imposed the major penalty and the applicant was removed from service vide order dated 24.04.2008 (Annexure-A/9). Being aggrieved of that, the applicant filed an appeal dated 17.06.2008, which was dismissed by the Appellate Authority on 18.12.2008 (Annexure-A/11). The Revision Petition and Review Applications filed by the applicant too were dismissed by the competent authority vide order dated 17.11.2009 (Annexure-A/12) and order dated 21.02.2012 (Annexure-A/1) respectively. Hence, by way of this application, the applicant has sought the following reliefs:-

"(a) *This original application may kindly be allowed and by an appropriate order or direction the impugned order / communication F.7-8/06-07 Pali, dated 21.02.2012 passed by the respondent no.3, i.e. the Superintending of Post Office, Pali Division Pali Marwar (Raj.) may kindly be declared illegal and quashed with all consequential benefits and alternatively it is also prayed that the respondents may further be directed to conduct denovo inquiry*

against the applicant after giving him opportunity of hearing to defend his case.

- (b) *The impugned order dated 17.11.2009, 18.12.2008 and 24.04.2008 may also be declared illegal and quashed with all consequential benefits.*
- (c) *Any other relief, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case, may kindly be passed in favour of the applicant.*
- (d) *That the cost of this application may be awarded in favour of the applicant."*

3. By way of reply, the respondent department averred that on the admission of the charges by the applicant, the Disciplinary Authority passed the order of removal, which was affirmed by Appellate Authority in appeal and the revision and review applications filed by the applicant were also dismissed by the competent authority after due considerations.

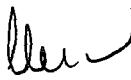
4. Heard both the parties. Counsel for the applicant contended that in similar matters, the respondent department ordered to hold a denovo inquiry, and as the applicant was under a mental depression and not under the normal status of his mind because of the illness of his mother and wife, therefore, under the depressive phase he admitted the charges leveled against him. Therefore, the order of punishment as well as the order of the Appellate Authority in appeal and Revising & Review Authority are required to be set aside.

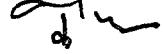
5. Per contra, counsel for the respondents contended that on the admission of the charges by the applicant, the order of removal was passed and the statement of the applicant are on record and she further submitted that during the course of enquiry due procedure was followed.

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6. We have considered the rival contentions of both the parties and also perused the record. So far as the mental status of the applicant and the disease of his mother and wife is concerned, no documents in support of that have been submitted by the applicant. It is an admitted fact that on the basis of admission of the charges by the applicant, the inquiry report was prepared. Therefore, there are no reasons for this Tribunal to interfere with the order passed by the Disciplinary Authority, Appellate Authority, Revising and Review Authority. However, as the counsel for the applicant submits that in similar matters, the respondent department ordered to hold the de novo inquiry then the department has the power to start the de novo inquiry, if in other matters, similar procedure has been adopted.

7. Accordingly, the OA is dismissed with no order as to costs.


(Meenakshi Hooja)
Administrative Member


(Justice K.C. Joshi)
Judicial Member