

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

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Original Application No.127/2012

Jodhpur this the 29th day of July, 2013

CORAM

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

Naresh Kumar Ramawat S/o Shri Punamchand Ramawat, aged about 28 years, R/o Q. No.5-D-1, Duplex Colony, Bikaner, (office address: - worked as EDMC at Bikaner HO under put off duty).

.....Applicant
(Through Advocate Mr. S.P.Singh)

Versus

1. Union of India, through the Secretary to Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur 302 007.
3. The Director, Post Master General, Western Region, Jodhpur.
4. Superintendent of Post Offices, Bikaner Division, Bikaner.
5. Assistant Superintendent of Post Offices, South Sub Division, Bikaner.

.....Respondents
(Through Advocate Smt. K. Praveen)

ORDER (Oral)

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

By way of this application, the applicant has challenged the legality of the notice dated 26.03.2012 by which the Disciplinary Authority while disagreeing with the report of the Inquiry Officer, and finding all the charges proved, has issued a show cause notice Annexure-A/1, to the applicant asking him to submit a written

representation within 15 days or else it will be deemed that the applicant has nothing to say and further action will be taken accordingly. The applicant has also challenged the memo dated 04.01.2011 by which he was dept under put off duty, and further sought the relief that the inquiry report dated 01.03.2012 submitted by the inquiry officer may be confirmed and consequential benefits may be granted to him, and further he may be allowed to join his duty and the period of put off duty to be treated as duty for all purpose and he further prayed for issue of any other appropriate directions in his favour.

2. The short facts of the case are that the applicant while posted as GDSMC at Rajasthan Krishi Viswavidyalaya, Bikaner, sub post office under Bikaner head office, a fraud was committed by Shri D.C. Chawanaria to the tune of Rs.20,65,739/- . The fraud was detected on 03.06.2009 and he committed suicide on 04.06.2009. The FIR was not lodged against him but about 4-5 lakhs was recovered from his retiral benefits. The respondent department initiated disciplinary proceedings under Rule 16 of CCS (CCA) Rules, 1965 and minor punishment was passed for other officials. The respondents without fixing the liability of the applicant initiated disciplinary proceedings and issued charge sheet under the GDS Service Rules. The applicant was transferred from Rajasthan Krishi Viswavidyalaya Bikaner sub post office to Bikaner Head Office and he was placed on put off duty. The applicant has been charged with certain charges. The disciplinary proceedings were

initiated and the Inquiry Officer was appointed, and the Inquiry Officer after completion of inquiry submitted the inquiry report and the applicant was exonerated from all charges in the inquiry report. The respondent disciplinary authority while disagreeing with the inquiry report served a notice to the applicant and asked to file a reply within 15 days despite knowing the facts that his liability is not fixed, his negligence is not proved, no loss to the Government is made out. Therefore, the applicant has filed the present OA.

3. The applicant has annexed total 12 documents as Annexure-A/1 to A/12 in support of his application.

4. By way of reply, the respondent department has denied any illegality or irregularity in issuing the notice at Annexure-A/1. It has been averred in the reply that the disciplinary action under Rule 10 GDS (Conduct & Employment) Rule, 2001 was initiated against the applicant vide memo dated 04.01.2011. The inquiry officer submitted his inquiry report dated 01.03.2012. The Inquiry Officer had concluded in his inquiry report that all four charges are not proved against the applicant. The Disciplinary Authority did not agree with the inquiry officer's report on valid grounds and issued disagreement notice to the applicant vide memo dated 26.03.2012 under the provision of Rule 15 (2) of CCS (CCA) Rules, 1965. It has been further averred that the fraud has been committed with the assistance of several employees and the liability shall be fixed as per the inquiry. It has been averred that the Disciplinary Authority has every right to disagree with the report of the Inquiry Officer as

per law and the applicant instead of filing any reply to the notice approached this Tribunal to quash the notice at Annexure-A/1, therefore, the application is liable to be dismissed.

5. By way of rejoinder, the applicant while reiterating the same facts as averred in the OA, has submitted that he has been kept under put off duty for more than six months and such cases should be brought to the personal notice of the Post Master General, who should issue appropriate direction in this regard, and the applicant is not paid TRCA as per rules because in spite of a long period, he is being paid only 25% of TRCA.

6. Heard both the parties. Counsel for the applicant contended that Annexure-A/1 cannot be said to be legal because inquiry officer after detailed inquiry submitted his report regarding the exoneration of the applicant from various charges and there was no reason for the Disciplinary Authority to disagree with the report of the Inquiry Officer. Further, he has contended that after the long period of duty, the applicant has been paid only 25% of TRCA, which is illegal and unjust.

7. Per contra, counsel for the respondents contended that the Disciplinary Authority has every right to disagree with the inquiry officer and issue a notice as per law to the applicant for filing fresh representation before the competent authority and she further contended that the notice at Annexure-A/1 does not suffer from any

irregularity or illegality, therefore, the application is liable to be dismissed.

8. We have considered the rival contentions of both the parties and also perused averments made in the pleadings and the documents filed by both the parties. It is settled position of law that the Disciplinary Authority can disagree with the inquiry report and he may issue a notice to the delinquent officer/official for showing the reason and in this case also the respondent Disciplinary Authority issued a notice to submit a representation regarding the disagreement note which was based on reasoned findings. In our considered view such notice cannot be said to be illegal or suffer from any irregularity or illegality because it is open for the Disciplinary Authority to accept the report or to disagree with the report, and in this case the Disciplinary Authority issued Annexure-A/1, a detailed notice explaining each and every thing. Therefore, in our considered view it cannot be said to be illegal or against the provisions of law.

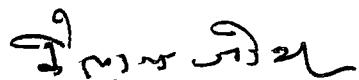
9. Accordingly, in our view the OA lacks merit and the same is dismissed. However, it is made clear that the applicant is under put off duty since a long period therefore the respondent department is directed to make payment of TRCA charges to the applicant as per law. Further, looking to the long pendency of the inquiry, the respondent department is also expected to expedite the inquiry proceedings and to decide the reply, if filed, to the notice at

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Annexure-A/1 within a period of three months from the date of receipt of a copy of this order. No order as to costs.



(Meenakshi Hooja)
Administrative Member



(Justice K.C. Joshi)
Judicial Member

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