

11/11

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR**

Original Application No.460/2012

Jodhpur, this the 16th April, 2013

CORAM

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

G.C. Bagoria S/o Shri Chandra Ram Bagoria, aged 48 years, R/o village & Post Murdawa Via Chanawai, Tehsil Sojat, District Pali, Official Address Sub Post Master (Time Scale) Babra Delivery Sub Post Office.

.....Applicant

Mr.Kamal Dave, counsel for applicant.

Vs.

1. The Union of India, through the Secretary, Ministry of Communication & Information Technology, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Superintendent of Post Offices, Pali Division, Pali.

...Respondents

Mr. Mirgraj Singh, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.
Ms. K. Praveen, counsel for respondents.

ORDER (ORAL)

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

By way of this application, the applicant has challenged the legality of the punishment order at Annexure-A/2 dated 25.08.2012, by which a major penalty has been imposed upon the applicant in pursuance to the enquiry initiated for the minor penalty vide Annexure-A/1, dated 11.05.2012.

2. The short facts of the case as averred by the applicant are that a charge sheet vide Annexure-A/1 was issued to the applicant
- 12

I/12

under Rule 16 of the CCS (CCA) Pension Rules, 1965, and the order of punishment vide Annexure-A/2 was passed by the Department imposing major penalty and the same made effective immediately. The applicant filed a representation before the respondent authority praying for providing the documents with the charge sheet. The respondent department provided some of the documents but refused to provide the cash book, which was demanded by the applicant. By way of Annexure-A/2 the respondent department imposed punishment of reduction of pay.

3. The respondents by way of reply denied the illegality or irregularity in passing the Annexure-A/2 order, and also denied the facts averred in the OA.

4. Heard both the counsels. Counsel for the applicant contended that Annexure-A/1, charge sheet dated 11.05.2012, was issued to the applicant under Rule 16, which provides for the minor penalties under CCS (CCA) Pension Rules, 1965, and the punishment vide Annexure-A/2, dated 25.0.2012, was passed effecting withholding the increment for one year with cumulative effect. He further submits that under Rule 11 of the CCS (CCA) Pension Rules, 1965, withholding of increment for one year with cumulative effect comes within the purview of major penalty and while proceedings under Rule 16 of the CCS (CCA) Pension Rules, no major penalty can be imposed on the applicant and only on this ground Annexure-A/2 suffers from the illegality, and therefore, it requires to be set aside.

2

21/13

5. Per contra, counsel for the respondents contended that Annexure-A/2 is legal.

6. From a bare perusal of Rule 11 of the CCS (CCA) Pension Rules, 1965, and Annexure-A/1 & A/2, it is clear that the departmental proceedings under Rule 16 were initiated against the applicant whereas major penalty/punishment was imposed vide Annexure-A/2, which cannot be sustained in the eyes of Law. Therefore, the OA is allowed and the Annexure-A/2 order is quashed, and the effect of the Annexure-A/1 shall not take place. However the payments, if any, withheld by the department in pursuance to the Annexure-A/2, shall be made available to the applicant within a period of one month 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

RSS

1