

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.474/2012
with
Misc. Application No.224/2012

Jodhpur this the 05th day of January, 2015

CORAM

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

Tejmal Bhambhi S/o Late Shri Mannaji, aged about 50 years, R/o village & post Gangapur, District Bhilwara, Pin-311801, at present employed on the post of Postman at Bhilwara HO, Bhilwara.

.....Applicant
By Advocate: Shri J.K. Mishra.

Versus

1. Union of India through Secretary to the Government of India, Ministry of Communication and Info Tech, Department of Post, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-302007.
3. Director Postal Services, O/o The Post Master General, Rajasthan Southern Region, Ajmer-305 001.
4. Superintendent of Post Offices, Bhilwara Division, Bhilwara.

.....Respondents

By Advocate : Smt. K. Parveen.

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

The Misc. Application No.224/2012 for condonation of delay is allowed for the reasons recorded in the application itself.



2. The applicant has filed the present OA under Section 19 of the Administrative Tribunal for the following relief(s):-

- (i) *That impugned penalty order dated 09.01.2007 (Annexure-A/1), imposing the penalty of Removal From Service, passed by 4th respondent, the appellate order dated 16.04.2007 (Annexure-A/2), reducing the penalty to that of reduction to minimum of the scale for five years at Rs.3050/-, on the post of Postman, and any adverse order, if passed, on revision petition, may be declared illegal and the same may be quashed. The applicant may be allowed all consequential benefits as if none of the impugned orders were ever in existence.*
- (ii) *That the respondents may be directed to produce the records of inquiry/ disciplinary proceedings in original at the time of hearing of this case since some of the documents are not available/ traceable with the applicant.*
- (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.”*

3. The brief facts of the case as averred by the applicant are that the applicant was initially appointed as EDMC Potia, SO Gangapur District Bhilwara and he worked as EDMC till 16.11.1995 and thereafter on 17.11.1995, he was appointed on the post of Postman after requisite training. The applicant was placed under suspension on dated 26.02.2005 and was issued with a charge sheet under Rule 14 of CCS (CCA) Rules, 1965 vide memo dated 07.04.2005, alleging that the applicant kept the mail at his house instead of distributing the same and violated the Rule 3 (1) (ii) of CCA (Conduct) Rule, 1964. Later on, his suspension was revoked on 11.04.2005. The applicant submitted his defence on 14.08.2006 to the inquiry officer and the same was said to be belated one. It has been further averred that the Inquiry Officer held the charges as proved and against which the applicant submitted a detailed representation. But the Disciplinary Authority has abruptly held the applicant is guilty of the



charge and has imposed the penalty of removal from service vide order dated 09.01.2007 (Ann.A/1). The applicant preferred appeal on 12.2.2007 and the same has been partly accepted and the penalty of removal from service was reduced to that of reduction to the minimum of the scale for postman as Rs.3050/- for a period of five years and he will be allowed due annual grade increments. Thereafter the applicant preferred an exhaustive revision petition dated 27.9.2009 before the 2nd respondent and also filed a reminder dated 7.9.2011 for early disposal. The applicant has also sought information under RTI Act and he has been informed vide letter dated 16.7.2012 that his petition is under consideration with 3rd respondent and he would be informed after the decision. The applicant has stated that he is being made to suffer in multiple ways on a false and fabricated charge. Therefore, aggrieved of the action of the respondents, he has filed this OA praying for the reliefs as mentioned in para-2 above.

4. In reply to the OA, the respondents have submitted that 544 articles have been found undelivered at the residence of the applicant and the same have been handed over by the applicant to PRI (P) and APM (Mails) of Bhilwara HO on 25.5.2005. Looking to the gravity of the work done by the applicant and seriousness of the case, the applicant was placed under suspension vide memo dated 25.2.2005 w.e.f. 26.2.2005. Thereafter the applicant was issued a charge sheet under Rule 14 of CCS (CCA) Rules, 1965 vide Postmaster Bhilwara HO Memo dated 7.4.2005 for violation of Rule 115 (1), 127(1), 129(1)(2), 131 and 132 of the Postal Manual Vol VI

(Part III) (Sixth Edition) and also failure to ensure devotion to duty as required under Rule 3(1)(ii) of CCS (Conduct) Rules, 1964. The applicant was given adequate opportunity to put forth his defence brief, but he failed to do so in time. The charges leveled against the applicant were fully proved during the enquiry and the disciplinary authority keeping in view the gravity of the proved charges imposed penalty of removal from service upon the applicant vide order dated 9.1.2007. The appellate authority after due consideration of appeal and taking lenient view in the matter reduced the penalty imposed. The applicant submitted a revision petition dated 27.9.2009 to respondent no.2 without observing departmental channel, which was not received by respondent No.2. He again submitted revision petition to respondent no. 2 on 6.6.2011 through respondent no.4 and the same was forwarded to the Postmaster General, Rajasthan Southern Region, Ajmer vide letter dated 1.7.2011 and the same is to be decided by respondent no.2 which fact was communicated to the applicant vide letter dated 24/27/02.2012 and 16.07.2012. The revision petition was pending and before outcome of the revision petition, the applicant has filed OA before this Tribunal. The reminder dated 7.9.2011 was also forwarded to respondent No.2. Therefore, the respondents have prayed for dismissal of the OA.

5. In rejoinder, the applicant has averred the same facts as averred in the OA.

6. Heard both the parties.



7. During the course of the arguments, both the counsels contended that a Revision Application filed by the applicant against the order of the Appellate Authority is pending before the competent authority and the applicant approached this Tribunal without exhausting all the remedies available to him.

8. In view of the submissions made by both the parties, we are intending to dispose of this OA with certain directions:

- (i) The Revisional Authority, before which the Revision Application filed by the applicant is pending, is directed to decide the same within three months from the date of receipt of a copy of this order.
- (ii) After decision of the revisional application, if any, grievance remains with the applicant he can approach the appropriate forum as per law.

9. Accordingly, the OA is disposed of as stated above with no order as to costs.


[Meenakshi Hooja]
Administrative Member


[Justice K.C.Joshi]
Judicial Member

OK
2/11/15

Recd copy.
2/11/15
for K. Barreem
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