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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Original Application No.58/2012

Date of decision: 8-8-2012

Orders reserved on 01.08.2012

**CORAM:**

**HON'BLE Mr. G. SHANTHAPPA, JUDICIAL MEMBER,  
HON'BLE Mr. B.K.SINHA, ADMINISTRATIVE MEMBER.**

Chandra Pal Doshi S/o Shri Ajab Lal Doshi, aged 57 years,  
Supervisor, Saving Bank Control Organization, Head Post office,  
Udaipur, R/o village Pratappur, District Banswara.

: Applicant

**Mr. Vijay Mehta, counsel for applicant.**

**Versus**

1. Union of India, through the Secretary, Ministry of Communication (Department of Posts), Sanchar Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Udaipur-313 004.
3. Director, Postal Services, Rajasthan Southern Region, Ajmer-305 001.


.....Respondents

**Mr. Ankur Mathur, proxy counsel for  
Mr. Vinit Mathur, counsel for respondent.**

**ORDER**

**Per G. Shanthappa, Judicial Member**

The above application is filed under Section 19 of Administrative Tribunals Act, 1985 challenging the legality and propriety of the charge sheet dated 14.12.2011 (Annexure-A/1) and the order dated 09.02.2012 (Annexure-A/2), and further relief of the applicant for staying the respondents from proceeding



further in the matter of disciplinary proceedings in respect of the charge memo dated 14.12.2011 (Annexure-A/1).

2. We have heard the learned counsel for the respective parties. It is admitted facts from the either side that the applicant while working as Supervisor, Saving Bank Control Organisation, Head Post Office, Udaipur, was served with a charge memo No.F2/4-2/10-11 dated 25.04.2011, which was issued under Rule 16 of CCS (CCA) Rules, 1965, alongwith the said charge memo, a statement of the imputations of misconduct was also served. A corrigendum to the charge memo dated 25.04.2011 was issued. The applicant submitted his representation dated 16.08.2011. After careful consideration of the said representation, the Sr. Superintendent of Post Office, Udaipur Division, dropped the charge memo dated 25.04.2011 vide order dated 07.12.2011. The applicant submitted an appeal dated 04.01.2012 to the Director, Postal Services, Ajmer, challenging the order dated 07.12.2011 on the ground no reasons are assigned. The Senior Superintendent of Post Offices, Udaipur, has not followed the D.G.,P&T's letter No.114/324/7-Disc. II, dated 05.07.1979 (Annexure-A/8), hence the impugned order of charge memo is illegal, against the law and the same is liable to be quashed.

3. It is the grievance of the applicant that the impugned Memo No.F2/4-2/10-11 dated 14.12.2011 (Annexure-A/1), and the order No.STA/SR/44-77(29)/12 dated 09.02.2012 (Annexure-A/2) are not in accordance with the CCS (CCA) Rules, 1965. When the



authority wants to drop the charge memo dated 25.04.2011, they must assign the reasons while issuing a fresh charge memo. The Disciplinary Authority could be barred from initiating fresh proceedings, unless the reasons for cancellation of the original charge sheet, the proceedings were being dropped without prejudice to further action, the decision taken by the authority is illegal. While dropping the charge sheet, it is duty of the authority carefully worded while issuing fresh charge sheet, no reasons are assigned and the charge sheet has been unconditionally dropped. The respondents are debarred from issuing fresh charge sheet. The third respondent has decided the appeal and rejected without considering the D.G.,P&T's letter dated 05.07.1979. The impugned order at Annexure-A/2 has been passed without hearing the applicant. The respondents have violated the Articles 14 and 16 of the Constitution of India, and the Principles of Natural Justice have not been followed.

4. The respondents have filed reply statement and vehemently opposed the OA, and supported the impugned fresh charge sheet and the order, there is no lacunae pointed out by the applicant, the procedure followed by the respondents is perfect, there is no illegality. The charge memo dated 25.04.2011 was issued under Rule 16 of CCS (CCA) Rules, 1965, on the review of the case, found that the applicant was charge sheeted only on the one charge as per CLI, the applicant was responsible for all charge. Hence the competent authority dropped the charge sheet under the Memo dated 07.12.2012. Thereafter Senior Superintendent of Post



offices, Udaipur, issued fresh charge sheet vide dated 14.12.2011 (Annexure-A/1). The applicant represented against fresh charge sheet, to the competent authority on 04.01.2012. The competent authority rejected the representation and directed the applicant to submit his representation to the charge sheet within 10 days. The charge sheet was issued on 14.12.2011 without any prejudice to the applicant. The CIL clearly mentioned that applicant has failed to work, as per rules the charge sheet was dropped with assigning proper reasons but the fresh charge sheet has not been issued on the same charges. There is no provision in the Rule to give opportunity to the applicant before deciding the representation. The competent authority after going through all the papers provided by the applicant and decided as per Rules. The fresh charge sheet was issued as per Rules and does not suffer from any illegality or irregularity.

5. The applicant has filed rejoinder denying statement made in the reply statement. The legal ground the applicant has taken, the appeal filed by the applicant has been illegally dismissed, the respondents failed to establish that they have authority to issue impugned charge sheet in view of the documents filed in the OA. The impugned direction and the orders are arbitrary, discriminatory and against the principles of Natural Justice.

6. We have carefully considered the submission of the learned counsel for either sides and perused the documents available on record. On the admitted facts, mentioned in the earlier paras, it is

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evident that applicant has served with a charge memo dated 25.04.2011 alongwith a statement of the imputations of misconduct. The applicant submitted his representation dated 16.08.2011, that was considered by the Senior Superintendent of Post offices, and dropped the charge memo dated 25.04.2011 vide order dated 07.12.2011. The reasons mentioned in the order reads as under:-

***"refer this office memo No.F2/4-2/10-11 dated 25.04.2011 is hereby dropped."***

7. On the representation submitted by the applicant, the counsel for the applicant admits that Senior Superintendent of Post Offices had issued the charge memo dated 25.04.2011, has powers to drop the charges. The applicant has no grievance in respect of the dropping the charges. It is grievance, after dropping the charges, the respondents have no authority to issue fresh charge memo on the similar set of facts without assigning the reasons as contained in D.G.,P&T's letter No.114/324/7-Disc. II, dated 05.07.1979. The said letter relates to the "Reasons for cancellation of original charge-sheet to be mentioned for issuing a fresh charge sheet". It is abstract as under:-

***"Reasons for cancellation of original charge-sheet to be mentioned for issuing a fresh charge sheet.-"***

***It is clarified that once the proceedings initiated under Rule 14 or Rule 16 of the CCS (CCA) Rules, 1965, are dropped, the Disciplinary Authorities would be debarred from initiating fresh proceedings against the delinquent officers unless the reasons for cancellation of the original charge-sheet or for dropping the proceedings are appropriately mentioned and it is duly stated in the order that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case. It is, therefore, important that when the intention is to issue a subsequent fresh charge-sheet, the order cancelling the original one or dropping the proceedings should be carefully worded so as to mention the reasons for such an action and indicating the intention of issuing a subsequent***



***charge-sheet appropriate to the nature of charges the same was based on.***

8. We have carefully considered the said letter and also the order dated 07.12.2011 (Annexure-A/6), that the Senior Superintendent of Post Office, Udaipur, has not assigned the reasons for issuing of a fresh charge memo. The counsel for the respondents has taken us to the reply statement that the authority has given the reasons while dropping the charges and issued a fresh charge memo. He has taken us the para (v) of the reply statement. "The applicant was served charge-sheet under rule 16 vide SSPO memo dated 25.04.2011 on the charges detailed at serial No.1 on the review of case found that the applicant was charge sheeted only on the one charge as per the CLI the applicant was responsible for all charges as mentioned at (i) to (v) hence the competent authority drop the charge sheet under the memo dated 07.12.2011. Thereafter SSPO issued fresh charge sheet vide dated 14.12.2011. On the whole five charges, the applicant represented against the fresh issue of charge sheet to competent authority on 04.01.2012. The competent authority vide his No.STA/SR/44-77 (29)/12 dated 09.02.2012 rejected the representation with direction that the applicant has submitted representation against the charge-sheet within 10 days." The applicant had submitted his appeal to the Director, Postal Service, Ajmer, vide appeal dated 04.1.2012. The said appeal is pending for consideration before the Director. In the meanwhile, the applicant has challenged the said charge memo dated 14.12.2011. In the present proceedings under



the facts and circumstances of the case, the Senior Superintendent of Post office, Udaipur, who is the Disciplinary Authority has powers to withdraw the charge memo, accordingly he has withdrawn the charge memo dated 25.4.2011. We have to test whether the Senior Superintendent of Post Offices, Udaipur, has justified in issuing the fresh charge memo dated 14.12.2011 and rejecting the appeal dated 04.01.2012. The said appeal was submitted to the Director, Postal Service, Ajmer, and a copy of which is marked to the Senior Superintendent of Post Offices Udaipur through P.M., Udaipur. The Senior Superintendent of Post Offices, Udaipur, has decided the appeal/ representation and rejected the appeal/representation and directed to the applicant to submit a representation within 10 days.

9. We have carefully considered the D.G.,P&T's letter dated 05.07.1979 and the order dated 07.12.2011. The counsel for the respondents submits, though the reasons are not mentioned in the order dated 07.12.2011, but in the reply statement the respondents are given the reasons to drop the charges and issued of fresh charge memo. The relevant portion is extracted (supra) and we have carefully considered the para (v) of the reply statement and the D.G.,P&T's letter dated 05.07.1979. As per the said letter, it was the duty of the Disciplinary Authority, when the authority has intension to issue a subsequent charge sheet, the order cancelling the original one or dropping the proceedings should be carefully worded so as to mention the reasons for such an action and indicating the reasons for issuing the subsequent



charge sheet appropriate to the nature of charges the same was based on. In the present case, the Senior Superintendent of Post Office, has not assigned the reasons, as directed in the said D.G. P&T's letter dated 05.07.1979, hence the decision taken by the Senior Superintendent of Post Office vide order dated 07.12.2011 though it is not challenged is illegal and against law. Consequently, the impugned charge memo dated 14.12.2011 (Annexure-A/1) and 09.02.2012 (Annexure-A/2) are not sustainable.

10. In the reply statement, the respondents have not justified the reasons given to support their stand while issuing the impugned orders, the competent authority has to assign the reasons. As observed in the earlier para, the contention of the applicant, the impugned order is cryptic, no reasons are assigned, whimsical, capricious. We have to test the impugned order is a reasons order as held by the Hon'ble Supreme Court. We are of the view that the impugned order is not a speaking order as held by the Hon'ble Supreme Court. The reasoned order should be as held by the Hon'ble Supreme Court in the case of **Ram Chandra v. Union of India** reported in 1986 (2) SLR-608, **Apparel Export Promotion Council v. A.K. Chopra** reported in 1999 SCC (L&S) 405 and **Narinder Mohan Arya v. United India Insurance Co.Ltd.** reported in (2006) 4 SCC 713. The authority must give reasons even while affirming the order of Disciplinary Authority. In our opinion, an order of affirmation need not contain elaborate reasons, but that does not mean that the order of affirmation need





not contain any reasons whatsoever. The order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming or reversing or modifying the order of the Disciplinary Authority. The purpose & disclosure of reasons is that the people must have confidence in the judicial or quasi-judicial authorities, unless the reasons are disclosed, how can a person know whether the authority has applied its mind or not". Also, giving of reasons minimizes chances of arbitrariness. Hence it is an essential requirement of the rule of law that some reasons at least in brief must be disclosed in a judicial or quasi judicial order, even if it is an order of affirmation. The reasoned order should be in accordance with the judgment of the Hon'ble Supreme Court reported in 2004 (7) SCC 431- **Cyril Lasrado (Dead) by Lrs. and Others v. Juliana Maria Lasrado & Another:**

"12. Even in respect of administrative orders. Lord Denning, M.R. in Breen v. Amalgamated Engg. Union observed. (AII ER p.1154h). "The giving of reason is one of the fundamentals of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree it was observed : "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

11. For the foregoing reasons though the applicant has not challenged the order dated 07.12.2011 (Annexure-A/6) on the ground that no reasons are assigned, his grievance is only after dropping the fresh charges, which are impugned in the OA. We are of the concerned view that the order dated 07.12.2011 which is not a reasoned order, the authority failed to give cogent reasons as contemplated in D.G.P&T's letter dated 05.07.1979, the applicant has established that the third respondent, has decided the appeal and rejected the appeal vide order dated 09.02.2012 (Annexure-A/2) without considering the order at Annexure-A/8. Accordingly, we have considered the legal grounds taken by he applicant. The respondents have not justified while issuing the order dated 07.12.2011 and also the impugned orders, we are inclined to quash the order dated 07.12.2011 though is not challenged, legally is not sustainable. We quashed the said order dated 07.12.2011, consequently the impugned charge memo dated 14.12.2011 and 25.04.2011 are quashed. The Senior Superintendent of Post Office, Udaipur (respondent No.2) is directed to consider the case of the applicant based on representation dated 16.08.2011 (Annexure-A/5) in consonance with the D.G., P&T's letter dated 05.07.1979 (Annexure-A/8).

12. With the above observations, the OA is disposed of. No order as to costs.

  
[B.K.Sinha]  
Administrative Member

  
[G. Shanthappa]  
Judicial Member