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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 151/2012, 152/2012, 153/2012, 154/2012 & 160/2012

Jodhpur this the 6st day of May, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

1. Vikash Kumar S/o Shri Shyo Narayan, aged about 26 years, R/o 33, New Postal Colony, Hiranmagari Sector-5, Udaipur 313 002, at present employed on the post of Postal Assistant in the Udaipur HO 313004.

.....Applicant in OA No. 152/2012

2. Ms Sangeeta Kukreja daughter of Shri Kashi Ramji, aged about 51 years, resident of 202, Parmatma Apartment, Shakti Nagar, Udaipur 313 001, at present employed on the post of Postal Assistant in Udaipur Head Post Office 313 004.

.....Applicant in OA No. 152/2012

3. Smt. Amita Bhatt W/o Shri Pankaj jani, aged about 49 years, R/o C-205, Ariosto Enclave, Bhuwana, Udaipur – 313 001, at present employed on the post of Postal Assistant in Udaipur Head Post Office.

.....Applicant in OA No. 152/2012

4. Surendra Lal Meena S/o Shri nathu Ram meena, aged about 56 years, R/o Village & Post – Dhelana Gumanpura via Semari, Distt. Udaipur, at present employed on the post of Postmaster Gde-II, Baran Mukhhya Dak Ghar, Distt. Baran.

.....Applicant in OA No. 152/2012

5. Smt. Biraj Lodha W/o Shri Sajjan Singh Hingar, aged about 52 years, R/o C/o Aditya Enterprises, Panchayati Nohara Ke Samane, Udaipur 313 001, at present employed on the post of Postal Assistant in Udaipur Head Post Office 313 004.

.....Applicant in OA No. 152/2012

.....Applicants

(Through Advocate Mr J.K. Mishra)

Versus

1. Union of India through Secretary to the Govt. of India, Department of Posts, Ministry of Communications & IR, Dak Bhawan, Sansad Marg, New Delhi – 110 001
2. The Senior Superintendent of Post Offices, Udaipur Division, Udaipur.
3. The Postmaster, Udaipur Head Post Office 313004.

.....Respondents in OA Nos. 151, 152, 153, 160 /2012

H/S

1. Union of India through Secretary to the Govt. of India, Department of Posts, Ministry of Communications & IR, Dak Bhawan, Sansad Marg, New Delhi – 110 001
2. The Senior Superintendent of Post Offices, Udaipur Division, Udaipur.

.....Respondents in OA Nos. 154/2012

.....Respondents

(Through Advocate Ms K. Parveen)

ORDER (Oral)

OA No. 151, 152, 153, 154, 160 of 2012 are disposed off with this common order as carrying similar facts and cause of action by the respondent-department is arising out of the common incident.

By way of this application the applicants have challenged the legality of Annexure A/1, charge sheet & A/2, punitive order. The applicant while challenging the legality of the Annex. A/2 averred that respondents while initiating inquiry under Rule 16 of CCS (CCA) Rules, 1965 imposed the penalty of recovery of loss caused to the department erroneously and passed the order Annex. A/2.

2. By way of counter the respondents denied the averments made in the OA regarding sustainability of charge sheet as well as punitive order and supported legality of the charge sheet and punitive order Annexes. A/1 & A/2 that negligence of the applicants have caused loss to the department.

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3. By way of rejoinder the applicants reiterated the facts averred in their applications and further annexed the order of the punishment passed against Shri Pankaj Kumar Nigam and judgment of the CAT Allahabad Bench passed in OA No. 296/2008.

4. Heard both the parties. Counsel for the applicant fairly admits that applicants have not filed any appeal against the impugned order A/2 but he submits that charge sheets have not been framed as per the instructions issued by the Govt. of India below rule 11 of the CCS (CCA) rules, 1965 by which it has been brought to notice of all the disciplinary authorities that how the charge sheet is to be framed in case of penalty of recovery from pay has been ordered for the alleged misconduct of the delinquent or employee. The counsel for the applicants contended that while framing the charge sheets against the applicants, instruction No. B referred in Annex. A/7 (in OA No. 151/2012) has not been followed. Therefore, charge sheets themselves deserved to be quashed and further Annex. A/2 are also liable to be quashed.

5. The learned counsel for the respondents opposed the argument of the counsel for the applicants.

6. So far as the legality of the Annex. A/2 is concerned, from bare perusal of record, it is clear that the applicants have not filed any appeal against the Annex. A/2 before Appellate Authority and

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without exhausting the alternate remedy available under statute they approached this Tribunal to quash the order of punishment. Therefore, in my considered view Annex. A/2 cannot be quashed without exhausting the alternate remedy available to the applicants.

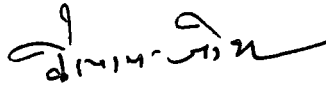
7. So far as quashing of charge sheets are concerned, the instructions issued by the Govt. of India [Annex. A/7 in OA No. 151/2012] have been followed or not, can only be ascertained by the applicants before the Appellate Authority by filing the appeal.

8. Counsel for the applicants submits that appeal of similarly situated persons have already been dismissed by the Appellate Authority, therefore, applicants have approached this Tribunal without exhausting the alternate remedy available to them under relevant rules. This argument advanced by the counsel for the applicants does not carry any force.

9. In view of the discussion hereinabove made, these applications are disposed off with the directions that the applicants may approach competent authority by way of appeal and competent authority shall treat their appeal within limitation, if filed within 30 days from the date of receipt of this order by the applicant and no recovery of penalty shall be effected before deciding the appeal of the applicants by the competent authority.

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10. If applicants have any grievance arising out of order of appellate authority, they may file fresh OA, if so desires. There shall be no order as to costs.


(Justice K.C. Joshi)
Judicial Member

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