

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Original Application No. 472/2013

Jodhpur this the 27<sup>th</sup> November, 2014

CORAM

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

Pancha Ram Bishnoi S/o Shri Amlu Ram, aged about 48 years, b/c Bishnoi, R/o Dholabala, Tehsil –Phalodi, District - Jodhpur.  
Office Address :- Dismissed from service on 25.10.2012, worked as PA in Postal Department.

....Applicant

By Advocate: Mr S.P. Singh.

**Versus**

1. Union of India through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Chief Postmaster General, Rajasthan Circle, Jaipur – 302007.
3. The Postmaster General, Western Region, Raj. Jodhpur.
4. The Director, Postmaster General, Western Region, Jodhpur.
5. The Senior Superintendent of Post Offices, Jodhpur Division, Jodhpur.

.....Respondents

By Advocate : Ms K. Parveen.

ORDER (Oral)

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

The applicant has filed this OA against the order Annex. A/1 dated 25.10.2012 by which the applicant has been dismissed from service.

27

2. The brief facts of the case, as stated by the applicant, are that the applicant was initially appointed as Postal Assistant (PA) w.e.f. 02.01.1987 and posted at Jaisalmer. The applicant was granted promotion on completion of 16 years' service w.e.f. January 2003. The applicant was transferred to Phalodi LSG Post Office w.e.f. May, 2002. While he was working as PA, a charge memo dated 20.11.2009 (Annex. A/2) under Rule 14 of CCS (CCA) Rules, 1965 was issued containing charges that the applicant while working as Treasurer remitted cash worth Rs 15,00,000/- to Lohawat SPO without any demand by the SPM, Lohawat, on 03.06.2009 and this entry of remittance was made by the applicant on a fake entry, actually no remittance was made to Lohawat. Knowingly no entry of remittances was got done in the Registered List of Lohawat dated 03.06.2009. The applicant denied the charges leveled against him vide his representation dated 30.11.2009. Thereafter, respondent No. 5 vide order dated 12.05.2010 appointed Shri B.R. Bhirania as Inquiry Officer and Inquiry Officer completed the inquiry on 26.12.2012. During the process of inquiry, the applicant was allowed by the Inquiry Officer to provide some documents for his defence vide his order sheet No. 8 but the same were not provided to the applicant. The Inquiry Officer instructed the competent authority to provide relied upon documents vide order sheet No. 12 dated 16.02.2012 before 27.02.2012 but the respondent failed to follow his instructions and Inquiry Officer had to proceed without these documents as mentioned in his order sheet dated 27.02.2012 (Annex. A/8). The applicant submitted his written brief to the Inquiry Officer on

14.05.2012 for consideration but the Inquiry Officer totally ignored the brief while preparing his inquiry report. The applicant submitted representation against the inquiry report on 29.09.2012. The applicant was dismissed from service then he preferred an appeal to respondent No. 4 on 08.11.2012 and averred that contents of this appeal may be treated as part and parcel of this OA. According to the applicant, the respondent No. 4 was duty bound to decide the appeal within a month but no answer came from the appellate authority after filing several reminders also and more than 11 months have been passed and nothing is heard from respondent No. 4 in respect of the decision on the appeal of the applicant. Therefore, the applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking following relief(s) :

- (i) That the impugned order vide Memo No. A9-1/09-10/Supl/1 dated 25.10.2012 forwarded by respondent No. 5 may kindly be declared illegal, unjust and deserves to be quashed and set aside,
- (ii) That by writ order or direction the respondents may kindly be directed to reinstate the applicant into service with all consequential benefits.
- (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 to the applicant.

3. By way of reply, the respondents have denied the averments made by the applicant and have averred that the applicant while working in the capacity of PA (Treasurer) Phalodi LSG SO committed a fraud to the tune of

Rs 1.97 Crores by various modus operandi in collusion with Shri Arjun Ram Bishnoi, PA (under suspension) Jodhpur HO and the then SPM Phalodi LSG SO. The applicant was served with a charge-sheet under Rule 14 of CCS (CCA) Rules, 1965 and the charges were proved against the applicant beyond doubt. After due consideration of the representation dated 29.09.2012, the applicant was dismissed from service vide Office Memo dated 25.10.2012. The applicant preferred an appeal before the Appellate Authority on 08.11.2012 which is under consideration. The appeal preferred by the applicant against the punishment awarded by the Disciplinary Authority was under active consideration and the Appellate Authority was about to pass appropriate order on the appeal but in the meantime, the applicant filed this OA before this Tribunal and, therefore, the Appellate Authority has kept his decision on the appeal in abeyance in view of filing of O.A. by the applicant.

4. Heard both the parties. Counsel for the applicant contended that the applicant filed an appeal before the Appellate Authority on 08.11.2012 and thereafter filed several representations but after lapse of more than 11 months nothing is heard from the Appellate Authority in respect of the decision on appeal which indicates that he is not doing anything in the appeal and reasons for not deciding the appeal is best known to the Appellate Authority and it proves that the applicant is being harassed.

5

5. Per contra, counsel for the respondents contended that the appeal preferred by the applicant against the punishment awarded by the Disciplinary Authority was under active consideration and the Appellate Authority was about to pass appropriate order on the appeal but in the meantime, the applicant filed this OA before this Tribunal and, therefore, the Appellate Authority has kept his decision on the appeal in abeyance in view of filing of O.A. by the applicant and the applicant has come to this Tribunal without exhausting all the remedies available to him. Therefore, she prayed to dismiss the OA.

6. We have considered the rival contentions of both the parties and also perused the record. Since, the appeal of the applicant is pending before the Appellate Authority, we propose to dispose of this OA with the direction to the competent Appellate Authority of the respondent-department to decide the appeal filed by the applicant dated 08.11.2012 (Annex. A/10) against order Annex. A/1 dated 25.10.2012, within 3 months from the date of receipt of this order.

7. The OA is disposed of in terms of above direction with no order as to costs.

  
(MEENAKSHI HOOJA)  
Administrative Member

  
(JUSTICE K.C. JOSHI)  
Judicial Member

R/Ss/