

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.83/2013

Jodhpur this the 01st day of January, 2014

CORAM

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

Pancha Ram Bishnoi S/o Shri Amlu Ram, aged about 54 years, by caste Bishnoi, R/o Dholabala, Tehsil Phalodi, District Jodhpur. Office Address: SPM (under suspension) Phalodi Sadar Post Office.

.....Applicant

Mr. S.P.Singhi, counsel for applicant.

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 Post Master General, Rajasthan Circle, Jaipur-302007.
3. The Director, Post Master General, Western Region, Jodhpur.
4. Sr. Superintendent of Post Offices, Jodhpur Division, Jodhpur.

.....Respondents

Smt. K. Parveen, counsel for respondents.

ORDER (Oral)

By way of this application, the applicant has challenged the legality of the order dated 07.02.2012 (Annexure-A/2) by which while exercising the powers conferred under sub-rule (1) of Rule 10 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965, the applicant was put under suspension and the order at Annexure-A/1 by which the appeal of the applicant was rejected.

2. The short facts of the case, as averred by the applicant, are that the applicant while posted at Phalodi as Postal Assistant, a fraud was committed. The applicant and another official Shri Arjun



were alleged as main offender. It has been further averred that many other officials were identified as subsidiary offender and the charge sheets were issued to them. The department proceedings commenced and the applicant was suspended vide order dated 08.06.2009. It has been averred that the respondent department did not pass any order on expiry of 90 days and therefore the applicant approached before this Tribunal and this Tribunal quashed the suspension order, which was challenged by the respondent department before the Hon'ble High Court. The Hon'ble High Court dismissed the writ petition and affirmed the order of this Tribunal. Thereafter, the respondent department directed the applicant to join his duty and consequential benefits were paid in view of the period of suspension treated as duty for all purpose. It has been further averred that the respondent department permitted the applicant to join duty on 08.02.2012, which is evident from charge report. The applicant joined his duty on 08.02.2013 but the respondent department issued the suspension order dated 07.02.2012 (Annexure-A/2), therefore, the suspension order is not valid. It has been averred that the suspension order can only be issued after joining by the applicant whereas the suspension order at Annexure-A/2 has been passed by the competent authority even before joining duties by the applicant. Being aggrieved of that, the applicant filed the representation but the same has been rejected stating that the applicant is removed from service. The applicant also filed an appeal but the same has not been considered by the competent authority and it has been rejected only on the ground that

it has been rendered infructuous as the applicant was removed from service vide memo dated 25.10.2012.

3. By way of reply, the respondent department denied the averments made by the applicant regarding illegality of the suspension order and further contended that the case of the applicant was reviewed by the suspension review committee after expiry of 90 days but the result of the suspension review was not communicated to the applicant. It has been further contended that the reinstatement order of the applicant was issued by the respondent department on 06.02.2012 in compliance of the order of the Hon'ble Court but the applicant was absent from the Headquarter on 06.02.2012 and 07.02.2012 and the same was delivered to him on 08.02.2012. It has been further contended that the appeal of the applicant was considered by the learned appellate authority and the same was rightly rejected being infructuous.

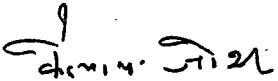
4. Heard both the parties. Counsel for the applicant contended that before joining duties by the applicant in compliance of the order of the Hon'ble Court, the order at Annexure-A/2 could not be passed by the respondent department and he further contended that the case of the applicant was not reviewed by the suspension review committee within 90 days from the date of issuance of the suspension order. It has been further contended that the appeal filed by the applicant has been wrongly rejected by the respondent department considering it to be infructuous.

5. Per contra, counsel for the respondents vehemently contended that the orders at Annexure-A/1 & A/2 have been passed by the respondent department in accordance with the rules.

6. I have considered the rival contentions of both the parties and also perused the relevant records. In the light of the fact that the Annexure-A/1 order was passed by the competent authority stating that the appeal filed by the applicant has rendered infructuous in view of the fact that the applicant has been dismissed from service vide office order dated 25.10.2012 in a disciplinary case under Rule 14 of CCS (CC&A) Rules, 1965, in my considered view the order at Annexure-A/1 cannot be said to be legal one because any appeal filed by the applicant against his suspension period must be decided on merits. Accordingly, I proposed to dispose of this application with certain directions.

7. The order at Annexure-A/1, dated 24.12.2012, is quashed and the respondent department is directed to decide the appeal of the applicant on merits rather on the ground that it has been rendered infructuous in view of the dismissal of the applicant from service vide order dated 25.10.2012. Further, the respondents are directed to decide the appeal of the applicant within a period of three months from the date of receipt of a copy of this order.

8. The OA stands disposed of in above terms with no order as to costs.


(Justice K.C. Joshi)
Judicial Member