

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00439/2014

Reserved on 09.05.2016

Jodhpur, this the 13th day of May, 2016

CORAM

Hon'ble Ms. Praveen Mahajan, Administrative Member

Arjun Ram s/o Shri Thakur Ram, aged about 55 years, b/c Bishnoi, r/o Vill+ PO Bhiojasar, Tehsil-Phalodi, District- Jodhpur. Office Address:- PA (under suspension), Jodhpur HO.

.....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 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

By Advocate : Mr.K.S.Yadav

ORDER

The present OA has been filed before the Tribunal to quash

applicant has been placed under suspension. The applicant has prayed that the suspension period from 07.02.2012 to 23.10.2014 may be declared as invalid and the same may be treated as on duty and consequential benefits may be granted to him.

2. Briefly stated, facts of the case are that the applicant, Shri Arjun Ram, while working in his capacity as SPM at Phalodi LSG SO was placed under suspension w.e.f. 09.06.2009. The respondents did not pass any order on expiry of 90 days. The applicant then approached the Tribunal claiming that suspension order had become inoperative. The suspension order was quashed by this Tribunal and the respondents were directed to allow the applicant to join his duties and grant all consequential benefits to him. Against this order, the respondent department went to the Hon'ble High Court. The Hon'ble High Court vide order dated 10.01.2012 dismissed the Writ Petition filed by the respondents and confirmed the order passed by this Tribunal. The applicant was reinstated and allowed to join duty on 06.02.2012 treating the intervening period as duty for all purposes. On the next day, however, i.e. on 07.02.2012, he was again placed under suspension under sub rule (1) of Rule 10 of CCS (CCA) Rules, 1965. It has been averred in the OA that the respondents did not issue chargesheet while the applicant was under suspension and that the employee cannot be suspended

twice for the same disciplinary proceedings. The learned counsel for the applicant also stressed that the authority competent to place the applicant under suspension as per sub-rule 5(b) of Rule 10 of CCS (CCA) Rules, 1965 was bound to record the reasons in writing directing that the Government servant should continue under suspension until termination of disciplinary proceedings.

3. In reply to the OA, the respondents have explained that on 07.02.2012 disciplinary proceedings under Rule 14 of CCS (CCA) Rules, 1965 were going on, which were at final stage, hence it was deemed necessary to place the applicant under suspension immediately to avoid any interference in the inquiry. Further, the DoPT OM dated 07.01.2004 quoted by the applicant is not applicable in this case because the chargesheet has already been served upon the applicant under Rule 14 of the CCS (CCA) Rules, 1965 vide OM dated 30.11.2009.

4. Heard both the counsels.

5. The learned counsel for the applicant again stressed upon the averments made in his written statement and stressed time and again on the fact that no written orders have been passed by the respondents explaining or justifying the reasons as to why the applicant has been placed under suspension the second time on 07.02.2012. He submitted that on account of this serious technical

lapse, the suspension was invalid. The applicant was entitled to all dues and consequential benefits during the period of suspension.

6. The learned counsel for the respondents explained that at the outset, it has to be brought on record that the applicant has misguided the Court by concealing the fact that he was dismissed from service w.e.f. 24th October, 2014. The date of filing the OA is 28th November, 2014 by which time the applicant had already been dismissed. Suppressing any fact is offence and in this case such a serious one, on grave charges of misconduct, the inquiry had culminated in dismissal of the applicant. He urged that everything prior to that now is deemed to have been forfeited and at best is of academic interest. The averment that the period of suspension till the date of dismissal of service may be treated as duty is absolutely erroneous and devoid of merit.

7. On going through the records of the case, I find that there were grave charges against the applicant due to which he was suspended from 07.02.2012 to 23.10.2014. The impugned order dated 07.02.2012 clearly mentions that disciplinary proceedings are pending against the applicant due to which he is being placed under suspension. The reasons of suspension are thus evident. In their reply, the respondents have rationally and painstakingly explained the reasons for placing the applicant under suspension

The applicant was reinstated in service on orders of this Tribunal not on merit, but on technicality of the respondents not having reviewed his suspension order before expiry of 90 days. The applicant has already been served a chargesheet under Rule 14 of the CCS (CCA) Rules, 1965 on 30.11.2009. He was duty bound to bring it to the notice of the Tribunal that on account of serious charges against him, he has been dismissed from service w.e.f. 24.10.2014. Involvement of the applicant in fraud of Rs. 1.97 crores has been proved beyond reasonable doubt. Due to which, he has been dismissed from service.

8. In view of aforesaid discussions, I find that the OA is devoid of merit and is accordingly dismissed with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member

R/