

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00135/16
& MA No. 290/00125/16

Jodhpur, this the 16th November, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

Baldev Singh, S/o Shri Kartar Singh, Aged about 55 years, R/o Bakhtanwali, Tehsil & District – Sri Ganganagar. (Office Address : Working as Postal Assistant at Hanumangarh Jn. 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 – 302 007.
3. The Director, O/o Post Master General, Western Region, Jodhpur.
4. Superintendent of Post Offices, Sri Ganganagar Division, Sri Ganganagar.

.....Respondents

By Advocate : Mr K.S. Yadav.

ORDER (Oral)

The present Original Application has been filed U/s 19 of Administrative Tribunals Act, 1985 by the applicant being aggrieved of issuance of charge sheet dated 30.06.2015 (Annex. A/3) under Rule 16 of Central Civil Services (Classification,

Control & Appeal) Rules, 1965 (hereinafter referred to as the CCS (CCA) Rules). He has sought for quashing of the orders dated 31.08.2015 (Annex. A/2) passed by the disciplinary authority imposing minor penalty of recovery of Rs 60,000/- upon the applicant for his contributory negligence which caused loss to the tune of Rs 4,26,640/- to the Department and also order dated 20.11.2015 (Annex. A/1) passed by the appellate authority rejecting his appeal. The applicant has sought the following relief(s)::

- (i) That the impugned order memo No. STA(WR)/44-(A)-44/2015 dated 20.01.2015 (Annex. A/1) and Memo No. F/Misc/Baldev Singh/15-16 dated 31.08.2015 (Annex A/2) may kindly be declared illegal unjust and improper and deserves to be quashed and set aside and consequential benefits may kindly be granted.
- (ii) That by writ order or direction the respondents may kindly be directed to refund the recovered amount with interest at the rate of 18% p.a.
- (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.

2. The respondents had earlier issued the charge sheet on 21.07.2009 (Annex. A/4). Based on the Annex. A/4 charge sheet, penalty order dated 15.01.2010) and appellate order dated 06.11.2012 were passed. However, on being challenged before this Tribunal in OA No486/2012, both these orders were quashed by this Tribunal vide order dated 13.03.2015. The respondent-

department was allowed to proceed against the applicant as per the provisions of law after determining the proportionate loss caused by the applicant. The applicant was served another memorandum dated 30.06.2015 (Annex. A/3) alongwith statement of imputation of misconduct under Rule 16 of CCS (CCA) Rules.

The following charge was imputed against the applicant :

“While working as correspondence clerk to the Postmaster Sri Ganganagar HO on 11.11.2008 Sh. Baldev Singh received speed post article no. EU 698110723 IN from Registry Clerk Sh. Suresh Meena duly entered in delivery slip addressed to Postmaster Sri Ganganagar H.O. He opened the speed post article containing AT no. 61 & 62 dated 05.11.2008 purportedly issued from Jhilmil H.O. New Delhi along with other documents for opening these accounts by transfer at Suratgarh City SO. Shri Baldev Singh failed to note as why the ATs have been received through service speed post. The same should had been come through service registered letter. He failed to bring this fact into the notice of the Postmaster. Had Shri Baldev Singh brought the fact in the notice of the Postmaster, the fraud of Rs 4,26,640/- which took place at Suratgarh City by these bogus ATs could had been detected at that time and the loss sustained by the department could have been saved. Thus Shri Baldev Singh is responsible for facilitating the fraud and loss to the department.”

3. The applicant filed representation dated 09.07.2015 (Annex. A/8) against the charge sheet dated 30.06.2015. The Disciplinary Authority after considering his representation held that contributory negligence of the applicant has been proved. The Disciplinary Authority vide order dated 31.08.2015 (Annex. A/2) ordered to recover Rs 60,000/- in six instalments of Rs 10,000/- each per month from the pay of the applicant commencing from the month of September, 2015. The applicant preferred appeal

dated 25.09.2015 (Annex. A/17) against the order dated 31.08.2015, which has been rejected by the appellate authority vide order dated 20.11.2015 (Annex. A/1).

4. At the time of issuing notice to the respondents on 28.01.2016, this Tribunal ordered that further recovery is stayed. The respondents filed reply while reserving their right to file final reply, in case need arises. The respondents have also filed MA No. 290/00125/16 for vacation of interim order dated 28.01.2016. The applicant filed rejoinder to the reply filed by the respondents.

5. During course of the arguments today, Ld. counsel for the respondents submitted that he wants to file detailed reply to the OA or matter may be heard on vacation of interim order. However, while referring to Annex. R/1 annexed with the reply, he submitted that the applicant has preferred revision petition dated 26.12.2015 before Chief Postmaster General i.e. respondent No. 2, which is pending consideration. Therefore, in view of Section 20 (3) of Administrative Tribunals Act, 1985, the OA filed by the applicant is not maintainable because the applicant had elected to submit such memorial before filing of the OA.

6. Ld. counsel for applicant submitted that the applicant filed the revision petition on 26.12.2015 but after a lapse of 11 months, the same has not yet been decided by the competent authority.

He further stated that the applicant would be satisfied if this

Tribunal directs the respondents to decide his revision petition in a stipulated time and till then no recovery is made in pursuance of impugned orders.

7. I have considered the submissions made by both the counsels and also perused the record. The revision petition of the applicant dated 26.12.2015 (Annex. R/1) is still pending before respondent No. 2. In these circumstances, without going into the merit of the case, the OA is disposed of with following directions:

- (i) The respondent No. 2 is directed to decide the revision petition (Annex. R/1) filed by the applicant within 03 months from the date of receipt of copy of this order;
- (ii) Till revision petition filed by the applicant is decided, recovery in pursuance of impugned orders 20.11.2015 (Annex. A/1) & 31.08.2015 (Annex. A/2) shall remain stayed.
- (iii) Thereafter, if any grievance remains to the applicant, he may approach appropriate forum, if so advised.

8. In terms of above directions, MA No. 290/00125/16 is also disposed of. No costs.



[Praveen Mahajan]
Administrative Member

Ss/-

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21/11/16

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