

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 139 of 2010

Thursday, this the 31st day of March, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member

Hon'ble Mr. K. George Joseph, Administrative Member

A. Sreejith,
S/o. Kunhiraman Adiyodi,
GDS MD, Kannadipoyil,
Alloramal House, Kayanna Bazar P.O.,
Perambra Via., Calicut.

.... Applicant.

(By Advocate Mr. R. Sreeraj)

v e r s u s

1. Union of India by its
Secretary to Government of India,
Ministry of Communications,
Department of Posts, New Delhi.
2. The Postmaster General,
Department of Posts,
Northern Region, Kerala Circle, Calicut.
3. The Inspector of Posts,
Department of Posts,
Vadakara North Sub Division,
Kerala Circle, Vadakara.

.... Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC for R1-2
Mr. S. Krishnamoorthy for R-3)

This application having been heard on 4.3.2011, the Tribunal on 31.03.2011 delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicant in this O.A. is aggrieved by the Memo No. DA/Kannadipoyil dated 30.06.2005 by which he was removed from service and by the Memo No. STA/30-1/2/08 dated 10.07.2009 by which the revision



petition preferred by him against the order of removal from service was rejected.

2. While the applicant was working as GDS MD, Kannadipoyil BPO, an enquiry was conducted against him under Rule 10 of the GDS (Conduct & Employment) Rules, 2001, for his failure to deliver 3 registered letters to the respective addressees and for retaining them with him after forging their signatures. The enquiry officer had found the applicant guilty of the charges. The applicant had submitted a representation dated 16.03.2005 to the 3rd respondent pointing out the lacuna in the enquiry report and seeking exoneration from the charges. But the 3rd respondent ordered removal of the applicant from service. The applicant filed a revision petition to the 2nd respondent which was rejected vide Annexure A-2 order dated 10.07.2009. Hence the O.A.

3. The applicant submits that the rejection of the revision petition is legally unsustainable as his revision petition is not hit by limitation. There is no evidence in the enquiry which is relevant and based on which a reasonable man could come to the conclusion that the applicant is guilty of charges levelled against him. There was delay in delivering the registered articles to the addressees. The articles were not destroyed. The applicant had recovered the articles from DW1 and DW2 and was about to deliver them to the addressees with due apology. The applicant did not get a reasonable opportunity to defend his case.

4. The respondents opposed the O.A. In their reply statement, they



submitted that the contention of the applicant that the finding of the enquiry officer was without appreciating the evidence adduced in the enquiry, is incorrect. The enquiry against the applicant was held in a free and fair manner giving every opportunity to the applicant to defend his case and there was no case of denial of natural justice. The applicant did not prefer any appeal against the penalty imposed on him. The enquiry report and punishment order are self-explanatory. The revision petition was submitted by the applicant after a lapse of more than 3 years without any valid ground. The respondent No. 2 did not find any reason to entertain such a petition and hence rejected the same.

5. We have heard Mr. R. Sreeraj, the learned counsel for the applicant and Mr. Sunil Jacob Jose, the learned SCGSC appearing for the respondents and perused the material on record.

6. The revision petition filed by the applicant on 06.11.2008 (Annexure A-7) was rejected by the 2nd respondent without going into the merits of the case. The relevant part of the order dated 10.07.2009 is reproduced as under:

"The petition submitted by the petitioner does not offer any reason for the delay in submitting the petition. The petitioner had ample opportunity to appeal to the appellate authority and also to submit petition to the reviewing authority on time. This was not done and after three years the petitioner has simply submitted a petition without offering any reason for the delay. I, Hilda Abraham, Postmaster General, Calicut, therefore, do not condone the delay and without going into the merits of the case, reject the petition".

7. The 2nd respondent rejected the review petition on the ground that the



petitioner did not appeal to the appellate authority, did not submit the petition to the reviewing authority and submitted a revision petition without assigning any reason for the delay of more than 3 years. The revision petition was filed under Rule 19 of GDS (Conduct & Employment) Rules, 2001. The said Rule is as follows :

"19. Revision.

(1) Notwithstanding anything contained in these rules -

- (i) the head of the Circle, or Region
- (ii) any other authority immediately superior to the authority passing the orders; or
- (iii) any other authority specified in this behalf by the Government by general or special order and within such time as may be specified in that general or special order;

may, at any time either on its own motion or otherwise call for records of any enquiry or disciplinary case and revise an order made under these rules, reopen the case and after making such enquiry as it considers necessary, may

- (a) confirm, modify or set aside the order
- o r
- (b) pass such orders as it deems fit:

Provided that no such case shall be reopened under this rule after the expiry of six months from the date of the order to be revised except by the Government or by the head of Circle or by the Postmaster General (Region) and also before the expiry of the time limit of three months for preferring an appeal under Rule 14.

Provided further"

8. A plain reading of the above provision shows that if a revision petition is preferred by the petitioner, the period of limitation is not applicable as the Postmaster General (Region) may, at any time, confirm or set aside the order after making such enquiry, as considered necessary. The period of six months is applicable only when a revision is submitted before any



authority other than the Government or the Postmaster General (Region). Therefore, Annexure A/7 petition is not hit by limitation. Under Rule 19 of GDS (Conduct & Employment) Rules, 2001, the Postmaster General (Region) may, at any time, either on its own motion or otherwise call for records of any enquiry or disciplinary case and revise an order made under these rules, reopen the case and after making such enquiry as he considers necessary, may confirm, modify or set aside the order or pass such orders as deemed fit.

9. The petition filed by the applicant to the revisional authority is not hit by limitation. Therefore, we are of the considered view that the revision petition dated 06.11.2008 submitted by the applicant to the 2nd respondent, i.e. the Postmaster General, Department of Posts, Northern Region, Kerala Circle, Calicut, should have been considered on merit. The rejection of the same on the ground indicated in the order dated 10.07.2009 is not legally sustainable. Therefore, we set aside the Annexure A-2 order dated 10.07.2009 with a direction to the 2nd respondent to consider the revision petition of the applicant dated 06.11.2008 on merit, pass a speaking order and communicate it to the applicant, within a period of three months from the date of receipt of a copy of this order.

10. The O.A. is allowed to the above extent. No order as to costs.

(Dated, the 31st March, 2011)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER