

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

Original Application No 157 of 2006

Order Reserved on 18.2.2014

Order Pronounced on 13/3/14

**HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

Mahesh Prasad aged about 38 years son of Sri Ram Lal, S. ,P. A. Mishrikh Tirth S.O (Sitapur) R/o Lonianpurva Near Barich Bhear Sitapur.

Applicant

By Advocate Sri R. S. Gupta.

Versus

1. Union of India through the Secretary Department of Post Dak Bhavan, New Delhi.
2. Director Postal Services O/O Chief Postmaster General U.P. Lucknow.
3. Superintendent of Post Offices, Sitapur.

Respondents

By Advocate Sri Praveen Kumar for Shri G. K. Singh.

ORDER

By Hon'ble Mr. Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

"(a) That the Hon'ble Tribunal may kindly be pleased to quash the order dated 22/8/2005 as contained in annexure No. 1 and refund the amount already recovered from pay of applicant along with interest over recovered amount @ 18%

(b) any other relief found just according to the circumstances of case with cost of O.A."

2. The brief facts of the case are that the applicant was appointed as Postal Assistant. After serving quite some time, the applicant was served with a charge sheet under Rule 16 of CCS(CCA) Rules 1965 wherein, it has been indicated that due to lapses on the part of the applicant, the respondents suffered a loss of Rs. 1490363/- while he was working with the respondents organization. The applicant was required to submit the representation to the authorities for which, the applicant has given the

detailed representation and also asked for inspection of relevant documents. The learned counsel for the applicant has also pointed out that he was not given the copies of the relevant documents and punishment was awarded to the applicant whereby, it has been ordered for recovery of a sum of Rs 1,20,000/- @ 1500/- per month in 80 equal installments. The applicant preferred the appeal against the said order and has also pointed out that the said appeal is pending for final adjudication. The learned counsel for the applicant has categorically pointed out that the respondents without providing the relevant documents to the applicant has passed the orders which is against the principle of natural justice. As such, the same is liable to be quashed.

2. The learned counsel appearing on behalf of the respondents filed their reply as well as supplementary counter reply and through the same, it indicated by the respondents that the applicant was proceeded against rules 16 of the CCS (CCA) Rules 1965 and a charge sheet was issued to him on 9.6.2005 and he was awarded punishment of recovery of Rs. 1,20,000/- vide memo dated 22.8.2005. The appeal preferred by the applicant to the Director Postal Assistant was also considered and rejected by the Director Postal Services vide order dated 28.3.2006. It is also submitted by the respondents that there is no procedural lapses on the part of the respondents and since this being the minor penalty, the reply to the charge sheet was sought and after considering the said reply of the applicant, the respondents have passed the orders of recovery whereby considering the applicant liable for loss to the Government.

3. The applicant filed the rejoinder affidavit and through rejoinder it was pointed out by the learned counsel for the applicant that the respondents have not followed the procedure laid down under Rule 18 of the CCS (CCA) Rules 1965 which is supposed to be followed by the respondents. The applicant through rejoinder, has also tried to indicate that since more than two Government Servants are concerned i.e. Postal Assistant and Supervisor in NSC Branch Postal Assistant and Supervisor in Sub Account Branch and Postal Assistant and SPM are

concerned, therefore action was required to be taken under Rule 18 of CCS (CCA) Rules 1965 which has not been done. As such, the provisions of CCS (CCA) Rules are not being followed and the entire proceedings deserves to be quashed.

4. Through supplementary counter reply, the respondents have not indicated any new facts only the reiteration of the reply filed earlier.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant was working with the respondents organization and was charge sheeted vide charge sheet dated 9.5.2005 which provides that while the applicant was working at Mohali Post Office has failed to discharge certain duties specially in making entries and making certain entries in the ledger book which caused loss to the Government exchequer to the tune of Rs. 14,90,363/-. As such, he was held responsible for the same. The applicant was asked to submit the reply and in reply, the applicant wrote a letter to the Superintendent Post Offices Sitapur on 18.5.2005 asking for certain documents and thereafter, he has submitted the detailed representation on 8.8.2005 indicating therein that the charges leveled against him are baseless and incorrect and it is also indicated by the applicant that after making required entries and also getting them tallied the relevant documents were transferred to other authorities. The disciplinary authority considered the reply of the applicant and after considering the reply as well as after pursuing all the relevant documents, the disciplinary authority came to the conclusion that if the applicant was careful in discharging his official duties, the loss incurred to the Government would have been saved and finally the disciplinary authority came to the conclusion that the charges leveled against the applicant stands proved and came to the conclusion that due to flouting of the rules, the Mohali Post Office suffered a loss of Rs. 14,90,363/-. As such, found applicant proportionately guilty and imposing the punishment of recovery of Rs. 1,20,000/- which was directed to be recovered @ 1500/- in 80 equal installments. The applicant preferred the appeal against the order of the disciplinary

authority on 27.9.2005 and as per the reply submitted by the respondents the said appeal of the applicant was also considered and decided by the appellate authority on 28.3.2006.

7. For ready reference, the Rule 16 and 18 of the CCS (CCA) Rules, 1965 is reproduced below:-

“ 16. Procedure for imposing minor penalties.

(1) Subject to the provisions of sub –rule (3) of Rule 15, no order imposing on a Government servant any of the penalties specified in Clause (i) to (iv) of Rule 11 shall be made except after-

(a) informing the Government servant in writing of proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 14, in every case in which the Disciplinary Authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the Government servant under Clause (a) and the record of inquiry, if any, held under Clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehavior; and

(e) consulting the Commission where such consultation is necessary.”

18. Common Proceedings.

(1) Where two or more Government servants are concerned in any case, the President or any other

authority competent to impose the penalty of dismissal from service on all such Government servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding.”

8. As observed by the Hon'ble Apex Court in the case of O.K. Bhardwaj Vs. Union of India and others reported in 2002 SCC (L&S) 188, it is observed by the Hon'ble Apex Court that **“even in the case of a minor penalty an opportunity has to be given to the delinquent employee to have his say or to file his explanation with respect to the charges against him. Moreover, if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. This is the minimum requirement of the principle of natural justice and the said requirement cannot be dispensed with.”** In the instant case, the applicant was given opportunity of hearing against the charge and the applicant submitted the reply/representation to the charge sheet to the disciplinary authority in which he has not asked for any documents and the relevant documents were shown to the applicant.

9. After asking for the documents and thereafter submitting representation, when the disciplinary authority passed the orders, it is indicated by the disciplinary authority that the applicant was allowed to show certain documents, but since he has not asked for any other documents and also sought time to submit the representation which was extended and thereafter, the applicant submitted the same and in the representation he has not indicated that he was not allowed to show all documents as claimed for.

10. As observed by the Apex Court in regard to the judicial interference in the disciplinary proceedings is very clear. In the case of the case of **B.C. Chaturvedi v. U.O.I. & ors. reported in 1995(6) SCC 749** again has been pleased to observe that **“the scope of judicial**

review in disciplinary proceedings the Court are not competent and cannot appreciate the evidence.”

11. In another case the Hon'ble Apex Court in the case of Union of India v. Upendra Singh reported in 1994(3)SCC 357 has been pleased to observe that the scope of judicial review in disciplinary enquiry is very limited.

12. Considering the submissions made by the learned counsel for the parties as well as the observations made by the Hon'ble Apex Court, we do not find any justified reasons to interfere in the present O.A.

13. Accordingly, the O.A. is dismissed. No order as to costs.

J Chandra

(Ms. Jayati Chandra)
Member (A)

U.R. Agrawal

(Navneet Kumar)
Member (J)

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