

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 310/2006

This the th20 day of January, 2009

Hon'ble Mr. M. Kanthaiyah, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)

Khushi Chand aged about 42 years son of Sri Mula Dass r/o 54 ,
Anandpuri, Alamnagar, Lucknow.

Applicant

By Advocate: Sri R.S.Gupta.

Versus

1. Union of India through the Secretary, Department of Post, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Lucknow.

Respondents

By Advocate: Sri None

ORDER

HON'BLE SHRI M. KANTHAIYAH, MEMBER (J)

The applicant has filed the Original Application with a prayer to quash the impugned order dated 28.4.2006 (Ann. A-1) issued by respondent No. 2 under which the respondents imposed penalty of reduction of one stage in the same time scale from Rs. 4600 to Rs. 4500/- permanently on the ground that the penalty has been imposed without providing any opportunity to him and also stated that the same is a major penalty which requires regular inquiry as per Rule 14 of CCA (CCS) Rules, 1965,

2. The respondents have filed counter reply denying the claim of the applicant stating that the respondent authorities have passed impugned order against the applicant under Rule 16 of CCA (CCS) Rules, 1965 on the basis of imputation of misconduct and misbehavior vide office memo

dated 5.10.2005 after supplying charge sheeted on the applicant on 6.10.2005 which he received on 10.10.2005 but did not submit any explanation even after lapse of more than five months and as such the authorities have passed the order imposing penalty which is in accordance with rules and no justified ground are there for interference of this Tribunal.

3. The applicant has filed Rejoinder Reply denying the stand taken by the respondents and also reiterated the pleas taken in the O.A.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that respondent No. 2 had issued charge sheet to the applicant under Rule 16 of CCS (CCA) Rules, 1965 alleging that while he working as P.A. at Post Office, Mahanagar as Speed Post Booking Assistant, he failed to detect reuse of postage stamps affixed on the articles presented at the counter for booking and onward dispatch and used postal stamps were found in his pocket and thus violated Rule 171 of P&T Manual Vol. VI part I Rule 99/1 of Postal Manual V and Rule 387 of P &T Manual Vol. II third edition (2nd Reprint) and thereby exhibited lack of integrity devotion to duty and thus violated the Provisions of CCS (Conduct) Rules, 1964. The said charge sheet was served on the applicant on 10.10.2005 asking him to submit his explanation within 10 days. It is also not in dispute that the applicant did not submit any explanation to the charge sheet and thereafter, the respondent No.2 who is the disciplinary authority passed order on 28.4.2006 imposing penalty of reduction of pay by one stage for a period of 2 years with immediate effect and during that period he

will not earn increment of pay and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay vide Ann A-1 which is under challenge. It is also not in dispute that the applicant submitted an application on 10.10.2005 for inspection of documents without filing any reply to the charge sheet.

7. The penalty imposed against the applicant vide Ann. A-1 dated 28.4.2006 that the pay of the applicant be reduced by one stage from Rs. 4600 to Rs. 4500/- in the time scale of Rs. 4000-100-6000 for a period of two years with immediate effect is the minor punishment as provided under Rule 11 of CCS (CCA) Rules, 1965. Admittedly, the charge sheet was issued to the applicant under Rule 16 of CCS (CCA) Rules, 1965 asking him to submit his reply within 10 days from the date of receipt of copy of the charge sheet. The applicant also received charge sheet on 10.10.2005 but not submitted any office explanation except making representation seeking permission for inspection of documents. The respondent No.2 waited for more than 5 months and when there was no reply for the charge sheet, he passed order against the applicant imposing penalty covered under Ann. A-1 dated 28.4.2006 which is a minor punishment.

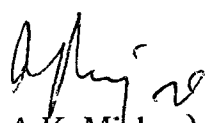
8. When the charge sheet was issued against the applicant in respect of minor punishment covered under Rule 16 of CCS (CCA) Rules, 1965 asking him for reply and when there was no reply from the applicant for the said charge sheet for more than 5 months, the respondent No.2 passed order on 28.4.2006 covered under Ann. A-1 imposing minor penalty. From this it is clear that the respondent No.2 gave ample opportunity to the applicant calling for his reply for the charge sheet but when he did not submit any explanation or reply to the said charge sheet, he has taken

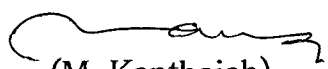
decision after waiting for a period of five months and in such circumstances, it is not open to the applicant to complain that there was a violation of principle of natural justice or that no opportunity was provided to him before taking decision by the respondents.

9. It is also the contention of the applicant that there was no regular inquiry and thus it caused prejudice to him. When there was no inquiry contemplated under Rule 16 of CCS (CCA) Rules, 1965, it is not open to the applicant to find fault against the orders of the respondents on the ground that there was no regular inquiry conducted against him for the charges levelled against him.

10. In view of the above discussion, it is clear that there is no violation of any principle of natural justice by the respondent no. 2 before passing penalty covered under impugned order dated 28.4.2006 (Ann. A-1) against the applicant and thus there are no merits in the application of the applicant for interference of this Tribunal and as such O.A. is liable for dismissal.

11. In the result, O.A. is dismissed . No costs.


(Dr.A.K. Mishra)
Member (A) 20/1


(M. Kanthaiah)
Member (J)
20.01.09

HLS/-