

**CENTRAL ADMINISTRITIVE TRIBUNAL  
LUCKNOW BENCH**

O.A.No.438/2006  
This the day of / 2006

**HON'BLE SHRI A.K. SINGH, MEMBER (A)**  
**HON'BLE SHRI M. KANTHAIAH, MEMBER (J)**

Udai Narain Singh, Mail Oversear (U/S) Pallia District, Kheri.

... Applicant.

By Advocate:-Shri R.S. Gupta.

Versus.

1. Union of India through the Secretary, department of Post Dak Bhawan, New Delhi.
2. Superintendent of Post Office, Kheri.
3. S.D.I. Pallia.
4. Sri Rakesh Kumar Shukla, S.D.I., Pallia District Kheri.

... Respondents.

By Advocate:-Dr. Neelam Shukla.

**ORDER**

**BY M. KANTHAIAH, MEMBER (J)**

The applicant has filed the OA to quash the orders dated 1.7.2006 (Annexure-1) and 9.8.2006 (Annexure-2) and to treat the applicant on duty with full pay and allowance and other consequential service benefits with the following averments.

2. The applicant who joined in the respondent department as Extra Departmental Branch Postman, promoted to the post man cadre and subsequently posted as Mail Oversear, Pallia on 3.1.2006. 3rd respondent who is the Inspector, Pallia sub Division vide his order dated 1.7.2006 suspended the applicant without any jurisdiction and power as such, the same is illegal and deserves to be quashed. He also filed the copy of order dated 15.10.1990 issued from the department of post in respect of revised schedule of appointing/



disciplinary/ appellate authority in respect of Group-C and D employees of the department. (Annexure-3). He further stated that 3<sup>rd</sup> respondent served charge sheet to the applicant under Rule -14 of CCS(CCA) Rules 1965 (Annexure-2) dated 9.8.2006 which clearly shows that the charge sheet has been issued by incompetent authority and as such the same deserves to be quashed. he further stated that before issuing the charge sheet no explanation was called for any irregularity or short comings on his part. When he made appeal against eh suspension order to the 2<sup>nd</sup> respondent which is pending . Annexure-4 is the copy of the appeal. Thus, he sought relief to quash of impugned orders covered under Annexure-1 and Annexure-2 Stating that the have been issued by incompetent authority.

3. The respondents have filed their counter stating that the applicant has been suspended by the respondents as per statutory law i.e Rule 10 sub Rule 1 of CCS (CCA) 1965 and thus, there is no illegality of the suspension order dated 1.7.2006 (Annexure-1). The suspension is not a punishment and as such no interference is warranted by the tribunal. As per the direction of the tribunal dated 11.10.2006, the 2<sup>nd</sup> respondent has disposed the appeal preferred by the applicant against the suspension order and passed speaking order revoking the suspension issued by 3<sup>rd</sup> respondent . Annexure-CR-2 is the copy of the said order dated 18.10.2006 issued by the Respondent No.2. Thus, they contents that the O.A. has become infructuous.

4. Heard both sides.

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

6. Admittedly, the applicant while working as Mail Oversear at Pallia sub divisional Inspector (SDI) Pallia suspended the applicant and

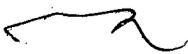
issued suspension order covered under Annexure-1 dated 1.7.2006 and also served a charge sheet under Rule 14 of CCS (CCA) Rules 1965 (Annexure-2) with four charges. After serving the orders of suspension, the applicant preferred an appeal before the 2<sup>nd</sup> respondent stating that respondent No. 3 is not the competent to take any disciplinary action and also passing suspension orders against him . Annexure-4 is the copy of the appeal dated 2.7.2006. when there was no response from the 2<sup>nd</sup> respondent, the applicant filed O.A. on 14.9.2006 questioning the impugned orders Annexure-1 and Annexure-2 issued by respondent No.3.

7. It is also not in dispute that the 2<sup>nd</sup> respondent revoked the suspension of the applicant on the appeal filed by the applicant there was direction from this Tribunal for disposal of such appeal. Annexure-CR-2 is the said revocation of the suspension of the applicant by the 2<sup>nd</sup> respondent . Annexure-3 is the revised schedule of the Appointing /Disciplinary / Appellate authority in respect to of

Group-C and D employees of the respondents department .

8. The short question involved in this application is whether 3<sup>rd</sup> respondent is the competent authority to take disciplinary action against the applicant and also orders of suspension and issuance of charge sheet. The 2<sup>nd</sup> point for considerations is that the orders of revocation of suspension passed by the 2<sup>nd</sup> respondent in the appeal of the applicant serves the purpose of the OA and thus, deserves for its dismissal .

9. Coming to the first part of the arguments in respect of the competency of the 3<sup>rd</sup> respondent who issued impugned suspension order o f the applicant and also charge sheet covered under Annexure-2, Clause -3 of revised schedule of Appointing/ Disciplinary/ Appellate Authority in respect of Group-C and D employees of th department, (Annexure-3), head of the division is



the appointing and disciplinary authority . It is also not in dispute that the applicant was working as Mail Oversear at the time of his suspension and the 3<sup>rd</sup> respondent is the Inspector of the Sub Division and he is not the competent authority to taken any disciplinary action or passing of suspension order since he is not the appointing authority. On this ground alone the impugned orders passed by the 3<sup>rd</sup> respondent covered under Annexure-1 and Annexure-2 are liable to be set aside.

10.Admittedly, the 2<sup>nd</sup> respondent who is the appellate authority against the order of 3<sup>rd</sup> respondent revoked suspension of the applicant covered under Annexure-1 by passing orders in appeal which is Annexure-CR-2 dated 18.10.2006 and by virtue of such orders of the 2<sup>nd</sup> respondent, suspension of the applicant has been revoked.

11.But the applicant not only challenged the impugned suspension order but also questioned the validity of charge sheet covered under Annexure-2 issued by the 3<sup>rd</sup> respondent stating that he is not the competent authority. Against such impugned order (Annexure-2), there is no finding from the respondent no.2in revocation order covered under (Annexure-CR-2). Admittedly, the 3<sup>rd</sup> respondent is neither the appointing authority nor competent to take disciplinary action against the applicant and in such circumstances, he initialing departmental inquiry against the applicant under Rule-14 of CCS (CCA) Rules 1965 is not at all maintainable and as such the impugned order covered under Annexure-2 is liable to be quashed.

12.It is the arguments of the counsel for the applicant, that the 2<sup>nd</sup> respondent while revoking suspension order of the applicant he reverted the applicant form the post of Mail Oversear to lower cadre of postman and allotted to the unit of SDT Kheri with immediate effect. Annexure-- dated 19.10.2006 is the said reversion order of

the applicant passed by 2nd Respondent. During the pendency of this application. From the combined reading of revocation order Annexure-CR-2 dated 18.10.2006 and reversion order A--- dated 19.10.2006 issued by 2<sup>nd</sup> respondent clearly shows that he has reverted the applicant from the post of Mail Overseer to the Postman and further transferred him from Sub Division Pallia to To the Unit of SDI Kheri during pend ency of the case in the tribunal.

13. It also shows that no show cause notice has been issued to the applicant and no opportunity has been provided to him from reverting him from the post of Mail Overseer to Postman, which itself shows violation of principle of natural justice, while exercising quasi judicial authority by the 2<sup>nd</sup> respondent that too during the pend ency of litigation in the tribunal. In view of the above circumstances, though there is no specific claim in respect of the reversion order covered under A---- dated 19.10.2006, it is liable to be quashed by way of consequential relief to the applicant.

14. In view of the above circumstances the impugned orders of charge sheet coved under Annexure-2-- issued by the 3<sup>rd</sup> respondent and also the reversion order issued by the 2<sup>nd</sup> respondent covered under A--- dated 19.10.2006 are liable to be quashed with a direction to the respondents to maintain status quo anti as on the date of impugned suspension order covered under A-1 dated 01.07.2006 with consequential benefits thereon to the applicant. No costs.

  
(M. KANTHAIAH)  
MEMBER (J) 11-12-07

  
(A.K. SINGH)  
MEMBER (A)

/AMIT/