

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No.256 of 2010

This, the 3rd day of March, 2016.

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

Kripa Ram, aged about 44 years, son of Shri Ram Sagar, resident of Village and Post Office Majhgawan, District Balrampur (Lastly working as ExtraDepartmental (now Granin Dak Sevak) Branch Post Master, Majhgawan, District Balrampur).

Applicant

By Advocate Sri Prashant Kumar Singh.

Versus

1. Union of India , through the Secretary , Ministry of Communication, Department of Posts, New Delhi.
2. Post Master General, Gorakhpur Circle, Gorakhpur.
3. Director Postal Services, office of the Post Master General , Gorakhpur Circle, Gorakhpur.
4. Superintendent of Post Offices, Gonda Division, Gonda.

By Advocate Sri P. K. Mishra.

ORDER(ORAL)

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) issuing/passing of an order or direction setting aside the impugned order dated 25.11.2008, passed by the Superintendent of Post Offices, Gonda Division, Gonda inflicting the punishment of removal from service upon the applicant, impugned order dated 27.8.2009, passed by the Director Postal Services , Gorakhpur rejecting the appeal preferred by the applicant and also the impugned order dated 19.5.2010, passed by the Post Master General Gorakhpur Circle, Gorakhpur rejecting the revision petition of the applicant (a contained in Annexure Nos. A-1, A-2 and A-3 to the application), after summoning the original records.
 - (b) issuing/passing of an order or direction to the respondents for reinstating the applicant back in service with all consequential benefits of seniority and pay and allowance etc.
 - (c) issuing/ passing of any other order or direction to the respondents, as this Hon'ble Tribunal considers appropriate in the circumstances of the case.
 - (d) allowing, this Original Application with cost.
2. The brief facts of the case are that the applicant while working with the respondents organization was charge sheeted through charge sheeted dated 25.11.2008 and thereafter, inquiry was conducted. The report of the inquiry officer was duly communicated upon the applicant who submitted the reply and the disciplinary authority passed an order of removal. Against the order of removal , the applicant preferred an appeal and the appellate authority also rejected the appeal of the applicant.

It is also indicated by the applicant that against the order of the appellate authority, the applicant preferred the revision and the revisional petition so preferred by the applicant was also got rejected by the revisional authority. The learned counsel for the applicant vehemently argued and pointed out that the defence statement of the applicant submitted in the appeal was not considered by the appellate authority as such, the appellate authority has not applied his mind and pass the orders in a very casual manner.

3. On behalf of the respondents, the detailed counter reply is filed and through counter reply, it is indicate that there is no procedural irregularity in conducting the inquiry. As such, it does not require any interference by this Tribunal. Apart from this, it is also argued by the respondents that the disciplinary authority as well as the appellate authority passed the orders after considering all the material available on record.


4. On behalf of the applicant, rejoinder is filed and through rejoinder, mostly the averments made in the O.A. are reiterated and the contents of the counter reply are denied.

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

6. The applicant who was working with the respondents organization was charge sheeted . Subsequently, he submitted the reply to the charge sheet and after the appointment of the inquiry officer, the inquiry officer conducting the inquiry and after the inquiry is being conducted, the inquiry report was duly communicated to the applicant who submitted the reply to the disciplinary authority and the appellate authority after considering the entire material available on record passed the order of removal.

7. Against the order of the disciplinary authority , the applicant preferred an appeal to the appellate authority and the appellate authority has also decided the appeal of the applicant, but bare perusal of the decision given by the appellate authority shows that the appellate authority though mentioned the grounds taken in the appeal, but have not expressed the reasons and has also not drawn any conclusion in respect of disagreement with the applicant in respect to the defence taken by him in his appeal. As such, it is crystal clear that the decision of the of the appellate authority is a non speaking order.

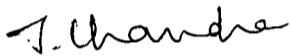
8. As observed by the Hon'ble Court in the case of Ram Chandra Vs. Union of India reported in 1986 (2) SLR-608 that "the departmental appeal against the order of dismissal the Appellate Authority under obligation to record reason for its decision."



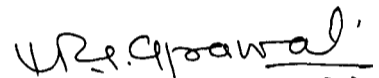
Since the order passed by the appellate authority is not a detailed order and the appellate authority has also not considered the grounds and the defence statement taken by the applicant. As such, it requires interference by this Tribunal. Accordingly, we are convinced that the order passed by the appellate authority is a non speaking order.

9. Considering the observations made by the learned counsel for the parties and also after perusal of record, we deem it appropriate to quash the order of the appellate authority dated 27.8.2009 as well as the order dated 19.5.2010 passed by the revisional authority and remanded back the matter at the stage of the appellate authority to reconsider the entire appeal of the applicant and pass a reasoned and speaking order within a period of four months from the date of receipt of the certified copy of the order is produced and the decision so taken be communicated to the applicant.

10. With the above observation, the O.A. is partly allowed. No order as to costs.



(Ms. Jayati Chandra)
Member (A)


(Navneet Kumar)
Member (J)