

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**Original Application No. 265/12
Order Reserved on 06.01.2015**

Order Pronounced on 20-01-2015

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

Hardwari Lal Shukla
Aged about 50 years
Son of Sri Mithu Lal Shukla
R/o Village & Post Office Mullapur District Kheri.

Applicant

**By Advocate Sri Praveen Kumar.
Versus**

1. Union of India through
The Secretary Ministry of Communication
& I.T. Government of India
Department of Post Dak Bhawan,
New Delhi.
2. Chief Postmaster General U.P. Lucknow.
3. Director Postal Services o/o Postmaster General Bareilly.
4. Superintendant of Post Offices, Kheri.

**By Advocate Sri Amarnath Singh Baghel.
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 this Hon'ble Tribunal may kindly be pleased to quash the order dated 8.3.2011 as contained in Annexure No. A-1 with all consequential service benefits.



(b) Any other order deemed just and proper in the circumstances of the case in favour of applicant with cost of O.A.

2. The brief facts of the case are that the applicant was regularly selected and appointed as EDBPM and joined on the said post in 1979. He was subsequently promoted to the cadre of Postal Assistant in 1997 after obtaining training for the same. The said order of promotion was issued after verification of character antecedents through District Magistrate and also after the verification of educational and other certificates as per the recruitment Rule 3 to 10 of P&T Man. Volume IV. Subsequently, the applicant was served with a charge sheet in 2011 indicating therein that after inquiry, it has been found that he manipulated his marks obtained by him in the intermediate examination. As such, he has violated the Rule 20 of CCS(Conduct) Rules 1964 and is liable to be punished. The applicant feeling aggrieved by the charge sheet preferred the present O.A.

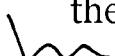
3. The learned counsel for the applicant has categorically indicated that after obtaining training from 31.12.1996 to 31.3.1997, the applicant was promoted to the post of Postal Assistant in Kheri w.e.f. 2.4.1997 and the said promotion order was issued after due verification of all the educational documents and other certificates and issuing any charge sheet in the year 2011 i.e. after a period of about 15 years is unjustified and also against the provisions of law and the observation of the Hon'ble Apex Court. As such, it requires interference by this Tribunal. Not only this, it is also indicated by the learned counsel for the applicant that earlier a charge sheet was

issued to the applicant in the year 2007 which is annexed along with counter reply but the respondents have not taken any action. The learned counsel for the applicant has also relied upon a decision of the Hon'ble High Court Delhi in the case of Than Singh Vs. Union of India and Others reported in ATJ 2003 (3) 42. The learned counsel for the applicant has also drawn our attention towards the Annexure CA-1 filed along with counter reply and has indicated that the respondents have themselves made an overwriting in their documents as such, it is prayed that the original marks sheet and the record may be summoned from the respondents. Not only this, the learned counsel for the applicant has also indicted that the preliminary inquiry has annexed along with counter reply and has once again indicated that the said inquiry was also conducted in the year 1996.

4. On behalf of the respondents reply as well as supplementary counter reply is filed and through their replies, the respondents have indicated that after the promotion of the applicant to the post of Postal Assistant a complaint was received as such a letter was written to the Sachiv Madhaymic Siksha Parisad for verification and submission of the report and when no response was received , another reminder was issued in the year 2006 itself. It is also pointed out by the respondents that when nothing was received , again reminder was issued in the year 2010. Subsequently, the Sachiv, Madhymic Siksha Parisad intimated the respondents that the date of birth of the applicant is recorded as 2.2.1960 in the records instead of 2.2.1962. It is further indicated that the marks secured by the applicant in the intermediate are 208 out of 500. The counsel for

the respondents has indicated that on the basis of the complaint, a preliminary inquiry was conducted and thereafter charge sheet was issued to the applicant in the year 2007. Since the applicant has altered his date of birth and the marks obtained in the intermediate examination, he was issued a charge sheet on 31.8.2007 and after holding the inquiry, the applicant was dismissed from service vide order dated 26.2.2008. Subsequently, the applicant submitted a memo/petition to the CPMG and vide order dated 7.7.2010, the applicant was reinstated in service in compliance of the order passed by the CPMG. Since the correspondence with the Secretary, Madhyamic Siksha Parisad under in progress as such, the respondents again received a letter from the Secretary, Madhyamic Siksha Parisad in the year 2010. Accordingly, a fresh charge sheet was served upon the applicant in the year 2011 which is impugned in the present O.A. Not only this, it is also vehemently argued by the learned counsel for the respondents that after receipt of the charge sheet, the applicant was asked to submit his representation but he did not submit any representation up to 22.3.2011. As such, an inquiry officer was appointed and since the interim orders were passed by the Tribunal, therefore, the inquiry proceedings could not proceed further. The learned counsel for the respondents has also categorically indicated that the applicant has conceal certain facts as such, it is pointed out that the O.A. is deserves to be dismissed out rightly.

5. 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.



6. Heard the learned counsel for the parties and perused the record.
7. The applicant was initially appointed in the respondents organization in the year 1979 and thereafter, promoted to the post of Postal Assistant w.e.f. 2.4.1997. The said order was issued after due verification of educational and other certificates as per the Rule 3 to 10 P&T Man. Volume IV. Subsequently, a complaint was received and the preliminary inquiry was conducted in the year 2007 after a period of about 10 years and in that inquiry, it was found that the applicant manipulated the date of birth as mentioned in the High School certificate and also manipulated the marks mentioned in the intermediate examination. A charge sheet was issued to the applicant vide charge sheet dated 31.8.2007. From the averments made by the respondents in their counter reply, the due inquiry was conducted on the basis of the charge sheet and the applicant was dismissed from service and thereafter, he has submitted a representation to the CPMG and the CPMG has revoked the dismissal order. It is also indicated by the respondents that after the promotion of the applicant and after the receipt of the complaint, a letter was written to the Secretary Madhyamic Siksha Parisad for verification of documents and during the said period, the charge sheet was issued. The respondents has categorically indicated that letters were written to the Secretary, Madhyamic Siksha Parisad in 2006 and the reminder was issued in the year 2010. The impugned charge sheet is issued on the basis of the a letter received from Secretary, Madhyamic Siksha Parisad dated 14.9.2010 in which the date of birth of the applicant is shown as 2.2.1960 in the High School certificate which is passed in 1975 and roll No. as shown is 260204

and the marks obtained in the intermediate examination in the year 1972 with roll number 135238 is 208 out of 500. The applicant challenge the said charge sheet before this Tribunal and the Tribunal granted the interim stay as such, no further proceedings on the charge sheet has taken place. During the course of arguments, the respondents were directed to produce the original records of the applicant right from the date of his application entering into the service till today. But the respondents have only submitted the documents which are : High School Certificate, Marks Sheet of the Intermediate Examination, the application of the applicant for the post of Postal Assistant, certificate issued by the Principal Cane Grower Inter College Jung Bahadur Ganj Kheri dated 4.12.1996 and letter of Deputy Secretary (Documents) Madhyamic Siksha Parisad UP Allahabad dated 13.9.2010.

8. Now the question which requires determination is that whether the date of birth is 2.2.1962 or to 2.2.1960. As per the original High School certificate as produced by the respondents roll number as mentioned in the High School certificate is 260204 and the date of birth is mentioned as 2.2.1962. In the intermediate examination, the original marks sheet of Cane Grower Inter College Jung Bahadur Ganj Kheri pertaining to the applicant clearly shows that the applicant has secured 218 marks out of 500 with roll and the application form so submitted by the applicant for the post of promotion from ED employee to Postal Assistant , the date of birth is shown as 2.2.1962 and the marks obtained in the intermediate examination 218 out of 500 with roll No. 135238. It is out of place to mention here that Sri R. C. Verma, Principal, Cane Grower Inter

College Jung Bahadur Ganj (Kheri) has also issued a certificate dated 4.12.1996 also clearly shows that the date of birth of the applicant is 2.2.1962 having a roll number in the High School 260204 and the marks obtained in the intermediate examination are 218 out of 500 with roll 135238. Only one documents which is issued by the Under Secretary (Documents) Madhymic Siksha Parisad shows that the date of birth is 2.2.1960 and the marks obtained in the Inter Mediate examination is 208 out of 500. It is very surprising that how an officer of such a repute can issue such a certificate whereas, original certificates and the marks sheet as provided by the respondents are clear to the extent that the date of birth is 2.2.1962 and the applicant has secured 218 mark out of 500 in the intermediate examination.

9. Considering the submissions made by the learned counsel for the parties and also after perusal of the record, it is clear that the charge sheet so issued to the applicant on the basis of the letter issued by the Under Secretary, Madhymic Siksha Parisad is unjustified, unreasonable and is liable to be quashed. Accordingly, the impugned charge sheet dated 8.3.2011 is quashed.

10. Accordingly, the O.A. is allowed. No costs.

J. Chandra
(Ms. Jayati Chandra)
Member (A)

Mr. Agarwal
(Navneet Kumar)
Member (J)