

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 983 of 2004**

*Indate* this the 18<sup>th</sup> day of October 2005

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Hari Shanker Gupta, S/o.  
Late Mulayam Chand Gupta,  
Aged about 48 years, R/o. 263/A,  
Saket Nagar, Near Badi Ukhari,  
Jabalpur.

.... Applicant

(By Advocate – Shri S. Paul)

**Versus**

1. Union of India, through its Secretary,  
Ministry of Communication,  
Department of Post, New Delhi.
2. The Chief Post Master General,  
Chhattisgarh Circle,  
Raipur – 492 001.
3. The Director Postal Services,  
O/o. The Chief Post Master General,  
Chhattisgarh Circle,  
Raipur – 492001.

.... Respondents

(By Advocate – Shri S.P. Singh)

**ORDER**

**By Madan Mohan, Judicial Member –**

By filing this Original Application the applicant has claimed the following main reliefs :

“(ii) set aside the removal order dated 27.1.2004 Annexure A-4, appellate authority order dated 20.7.2004 Annexure A-5 and fresh charge sheet dated 24.8.2004,



(iii) consequently command the respondents to provide all consequential benefits to the applicant as if the aforesaid disciplinary proceedings and impugned orders are never passed."

2. The brief facts of the case are that the applicant while working as Sub Divisional Inspector (Postal), was served with a charge sheet dated 29.8.2002 (Annexure A-1). The enquiry officer submitted his report holding that the charges have not been fully proved. This report was served on the applicant by notice dated 3.6.2003. He has submitted the representation. Thereafter the disciplinary authority vide letter dated 17.11.2003 intended to disagree with the finding of the enquiry officer and gave a notice to the applicant. He submitted representation against it. Thereafter the disciplinary authority inflicted the punishment of removal from service on the applicant vide order dated 27.1.2004 (Annexure A-4). The applicant also preferred an appeal and the appellate authority decided the appeal of the applicant vide order dated 20.7.2004. Taking in to account the order of the appellate authority the disciplinary authority passed an order dated 24.8.2004, thereby issuing a fresh charge sheet against the applicant on identical allegations which were part of the earlier charge sheet. Such second charge sheet could not have been issued by the disciplinary authority according to the rules and law. Hence, he has filed this Original Application.

3. Heard the learned counsel for both the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the disciplinary authority had passed the order of removal from service vide order dated 27.1.2004 (Annexure A-4). Against this order the applicant preferred an appeal which was decided by order dated 20.7.2004 (Annexure A-5). The appellate authority remitted back the matter to the disciplinary authority for issuing self contained, speaking and reasoned order. But the disciplinary authority issued another charge sheet vide order dated 24.8.2004 (Annexure A-6) on the same allegations which were part of the



earlier charge sheet. No such direction was given by the appellate authority and the appellate authority has only directed to pass speaking, detailed and reasoned order. Hence, the Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that after issuing the dissenting note and giving opportunity of submitting representation to the applicant the disciplinary authority has passed the order of removal from service on the applicant. The applicant preferred an appeal against it. The appellate authority passed the order dated 20.7.2004 and the matter was remitted back to the disciplinary authority. Thereafter the disciplinary authority passed the order dated 24.8.2004 (Annexure A-6) in which it is mentioned that the charge sheet alongwith the whole disciplinary proceedings held by the SSPOs, Jabalpur against the applicant is ordered to be withdrawn without prejudice to further action which may be considered in the circumstances of the case. It was also mentioned that the SPOs, Jabalpur is ordered to issue a fresh charge sheet after necessary corrections as mentioned in para 7(i) & (ii) above and hold the D.E. strictly adhering to the instructions contained in the appellate order. Hence, the aforesaid order dated 24.8.2004 (Annexure A-6) is passed in accordance with the directions given by the appellate authority. The appellate authority did not find to quash the said order of removal from service of the applicant passed by the disciplinary authority. The matter was only remitted back to the disciplinary authority. Hence, the action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that after receiving the report of the enquiry officer the disciplinary authority has intended to disagree with the findings of the enquiry officer and prepared the dissenting note against it. The applicant was given opportunity to file representation against it. The applicant submitted his representation and



after considering the representation of the applicant the disciplinary authority has passed the order of removal from service on the applicant vide order dated 27.1.2004 (Annexure A-4). The applicant filed an appeal against the aforesaid order. The appellate authority passed the order dated 20.7.2004 (Annexure A-5) and in paragraph 8 it is mentioned as under :

“8. In the light of the discussion in the foregoing paragraphs, it is found that the material documents of the inquiry like the statement of articles of charges and statement of imputations of misconduct or misbehaviour, statements of witnesses and other relevant records, inquiry report and defence statement have not thoroughly and critically been examined by the disciplinary authority to arrive at its conclusions. The punishment order appealed against is, therefore, found to be suffering from infirmity and lacking the attributes of a judicial order as it is not a speaking, self-contained and reasoned order. The case, therefore, remitted back to the disciplinary authority for issuing self-contained, speaking and reasoned order having all the attributes of a judicial order, after dispassionate, critical and thorough examination of inquiry proceedings and all the concerned records/evidences.”

Thereafter the order dated 24.8.2004 (Annexure A-6) was issued by which the disciplinary authority and by which the earlier charge sheet was ordered to be withdrawn and the SPOs, Jabalpur was directed to issue a fresh charge sheet after necessary corrections and hold the departmental enquiry strictly adhering to the instructions contained in the appellate order. We further find that a de-novo enquiry proceedings were initiated against the applicant on the same charges. We have perused the order passed by the appellate authority dated 20.7.2004 and in which it is clearly mentioned that the punishment order appealed against is found to be suffering from infirmity and lacking the attributes of a judicial order as it is not a speaking, self-contained and reasoned order. Hence, the case is remitted back to the disciplinary authority for issuing self contained, speaking and reasoned order having all the attributes of a judicial order, after dispassionate, critical and thorough examination of inquiry proceedings and all the concerned records/evidences. This order of the appellate authority does not permit the disciplinary authority to initiate de-novo departmental enquiry proceedings against the applicant. In view of



the aforesaid order passed by the appellate authority the subsequent order dated 24.8.2004 (Annexure A-6) by which the order of fresh charge sheet is to be issued to the applicant, seems to be not passed in accordance with the order passed by the appellate authority.

7. Considering all the facts and circumstances of the case we quash and set aside the order dated 24.8.2004 (Annexure A-6) and thereby the matter is remitted back to the disciplinary authority and the disciplinary authority is directed to pass the necessary orders in compliance with the order of the appellate authority dated 20.7.2004 (Annexure A-5) keeping in view the orders passed by the appellate authority i.e. "[T]he punishment order appealed against is, therefore, found to be suffering from infirmity and lacking the attributes of a judicial order as it is not a speaking, self-contained and reasoned order. The case is, therefore, remitted back to the disciplinary authority for issuing self-contained, speaking and reasoned order having all the attributes of a judicial order, after dispassionate, critical and thorough examination of inquiry proceedings and all the concerned records/evidences". The aforesaid direction be complied with by the disciplinary authority within a period of three months from the date of receipt of a copy of this order, keeping in view the aforesaid observations made by us.

8. Accordingly, in view of the aforesaid terms, the Original Application stands disposed of. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

पृष्ठकल सं ओ/न्या.....जबलपुर, दि.....  
प तिलिपि अ यो तिगः

- (1) सचिव, उच्च न्यायालय, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....काउंसल
- (4) कानून, को.प्र.अ., जबलपुर न्यायाधीश  
सूचना एवं आवश्यक कार्यवाही हेतु

रजिस्ट्रार

Issued  
26.10.05

"SA"