

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

....

Original Application No. 362/2002
&
original Application No. 444/03

Jabalpur, this the 24th day of June, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

R.K. Shrivastava
aged about 60 years,
S/o Late Shri G.P. Shrivastava,
Sr. Superintendent of Post Offices,
R/o 127/92, W-I, Saket Nagar,
Kanpur- 208014 (UP).

...Applicant

(By Advocate: Shri Satish Awasthi for Sh. Udayan Tiwari)

-versus-

1. Union of India through
Secretary to the Deptt. of Posts,
Dak Bhawan,
New Delhi.
2. The Chief Post Master General,
M.P. Circle, Bhopal (MP).
...Respondents

(By Advocate: Shri P. Shankaran for Shri Om Namdeo)

O R D E R

By Madan Mohan, Member (Judicial) -

Since the facts and issues involved in both the original applications are almost identical and similar, we proceed to dispose of both these OAs by this common order.

2. The applicant, being common in both these O.As, has sought the relief to quash the Memorandum dated 22.02.2002 (Annexure A5 - sick Annexure A-4) in OA No. 362/02 and to quash the Memorandum dated 28.4.2003 (Annexure A-3) in O.A. No. 444/2003 and further to restrain the respondents from proceeding with the departmental proceedings any further and also to restrain the respondents from giving effect to the reversion order, if any.

3. The brief facts in both these cases are that the applicant joined the services of respondent no. 1 w.e.f. 16.2.1963 as Postal Assistant. He earned promotions in due

course as Inspector of Post Offices, Assistant Superintendent of Post Offices etc. He was further promoted as Superintendent of Post Offices w.e.f. 13.2.1990 and on his promotion to this post he was posted as Superintendent of Post Offices at Etawah (Uttar Pradesh). According to the line of promotion Superintendent of Post Offices become eligible for promotion to the post of Senior Superintendent of Post Offices on the basis of seniority-cum-fitness. As learnt by the applicant the work of the DPC was over by July 5, 1998. An order promoting Senior Superintendent of Post Offices was issued on 23.7.1998. The name of the applicant should have been immediately after serial no. 20 in the said order. However, his name was not in the said order. Being surprised, he made enquiries and learnt that a notice to show cause was issued to him by Memorandum dated 4.1.1996 under Rule 16 of the CCS(CCA) Rules, 1965 for some irregularities alleged to have been committed by him soon after his promotion as Superintendent of Post Offices. The irregularities pointed out were trivial in nature. The applicant demanded inspection of documents to submit the reply to the notice to show cause. Some documents were shown to him and allowed to be inspected whereas some important documents were not made available for inspection either. While the applicant was working at New Delhi, he received a notice to show cause. Inspite of issuance of said notice, he was transferred as SSP to Jabalpur. Normally, a person, who has worked for more than one year on ad hoc post, is not reverted to the lower substantive post, even if there is a proposal for disciplinary proceedings. Since the applicant had worked for more than six years as SSP on ad hoc basis, he challenged the order of reversion as also the order of transfer dated 5.8.1998 before this Tribunal by filing OA No. 593/98 which was partly allowed quashing the order of reversion with a liberty to the respondents to transfer the applicant on the post of SSP or equivalent to any place.



Because the applicant succeeded in getting the order of reversion quashed by order dated 5.8.1998 (A/1) the department was seriously displeased with the applicant. They have picked up some complaints out of Annexure A/3 and have formulated them into a chargesheet, which has been served on the applicant vide order dated 22.2.2002 (A/4). The applicant has approached the said this Tribunal challenging the issuance of/chargesheet for major penalty when none of the charges levelled against him has any serious consequence as they all are trivial in nature and such a chargesheet could not have been issued to him at least after five years of occurrence of the alleged incident. During the pendency of the original Application No. 362/2002, the respondents issued another chargesheet dated 28.4.2003 on trivial matter so that even after retirement the petitioner could not live peacefully and remain under constant harassment. The said chargesheet has been challenged by the applicant before this Tribunal by filing O.A. No. 444/2003. The respondents had not supplied to the applicant the copies of documents relied upon by them in regard to the chargesheet (A/3 in OA No. 444/03) which was received by him after he had handed over charge and was totally relieved from the Government service. Therefore, the applicant submitted a short reply on 12.5.2003 stating that charge no. 2 is already covered by the previous chargesheet dated 22.2.2002. The matter relates to the year 1997 hence it cannot be made the basis for constituting a charge after lapse of four years. This chargesheet was also issued by the respondents on the ground of displeasement after the applicant had got the reversion order quashed. Hence, the applicant has prayed for quashment of both the chargesheets.

3. Heard the learned counsel for both the parties and have carefully perused the material available on court file.
4. It is argued on behalf of the applicant that the applicant had earlier filed an OA No. 593/98 against his reversion order before this Tribunal. The Tribunal was pleased to quash the



reversion order while disposing the said O.A. on 25th Sept., 1998 and by this order of the Tribunal the respondents became displeased with the applicant as a result of which they picked up some complaints and formulated them into charge-sheets on the allegations which are trivial in nature. The applicant was also not allowed to inspect the documents relied upon by the respondents except some documents. It is argued that the respondents did not allow the applicant to inspect the important documents. However, the applicant submitted his reply in absence of the required documents. It is further argued that the chargesheets issued to the applicant in both the O.A.s are baseless and are based on allegations of trivial nature and therefore deserve to be quashed and set aside. The act of the respondents is a clear case of vengeance against the applicant and to harass the applicant even after his retirement from service. On the submissions made above the respondents may be restrained from proceeding with the departmental enquiry and chargesheets may be quashed.

5. In reply, the learned counsel for the respondents has argued that Memorandum of Chargesheet dated 22.2.2002 and has been issued against the applicant/on receipt of the same the applicant submitted his representation dated 11.3.2002 which was disposed of by the competent authority vide Memo dated 16.4.2002. Enquiry Officer and Presenting Officer have thereafter been appointed in the case vide orders dated 16.4.2002 and the enquiry is in progress. The charges against the applicant are serious in nature involving financial as well as administrative irregularities reflecting on the integrity of the applicant. It is further argued that the order of the Tribunal vide which the applicant's reversion was quashed has no connection with the present disciplinary proceedings, which have been initiated against him on the grounds of financial and other irregularities involving his integrity. Hence, the Tribunal should not interfere with the



chargesheet and the same should not be quashed as the respondents after affording full opportunity to the applicant would conclude the enquiry and pass an appropriate order.

6. After hearing the learned counsel for both the parties and careful perusal of the record, we find that in the chargesheet dated 22.2.2002 in OA No. 362/2002 some financial irregularities are alleged against the applicant about the purchase of pilot and other type of pens, soaps hangers, Jharu etc. which seems to be trivial in nature but other charges against the applicant are found to be grave in nature. We have also gone through the chargesheet dated 28.4.2003 in O.A. No. 444/2003 in which it is alleged that the applicant had favoured one Shri P.K. Shrivastava with dishonest and ulterior motive by recommending compulsory retirement of the official while forwarding his disciplinary case of major penalty proceedings to the disciplinary authority, knowing fully well the fact that a criminal case has been registered by the C.B.I. authorities against the said official in the same case. It is also seen in the chargesheet that he had transferred several officials, while functioning as SSPO, Jabalpur Division, Jabapur, who had not completed two years at their post, modified transfer orders without the officials having joined at stations ordered, without the approval of the Head of Circle and deliberately transferred and posted one Shri D.C. Pandaram as S.P.M., Padaria Marainganj, Single handed SO vide Memo dated 18.2.1999 though the official was previously placed under suspension on several occasions, his service records were most unsatisfactory and his integrity was also doubtful. Therefore, keeping in view the charges levelled against the applicant, which are grave in nature we are of the view that the chargesheets dated 22.2.2002 and 28.4.2003 do not deserve to be quashed and it is also not proper to restrain the respondents from proceeding with



the departmental enquiry against the applicant.

7. Having regard to the facts of the case and in the light of the seriousness of the charges, we do not find any ground to quash the impugned chargesheets dated 22.2.2003 and 28.4.2003 and the O.A. deserves to be dismissed which is accordingly dismissed. No costs.



Sd/-

(Madan Mohan)
Member (Judicial)

Sd/-

(M.P.Singh)
Vice Chairman