

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

O.A.No.148/2002

Hon'ble Sh. Sarweshwar Jha, Member (A)
Hon'ble Sh. G. Shanthappa, Member(J)

Jabalpur, this the 7th day of November, 2003

Sunder Lal Uparariya
s/o Shri Ramadhar Uparariya
working as Postal Assistant
Headquarter
Main Post Office
Hoshangabad
r/o Sadar Bazar
Hoshangabad (MP).

... Applicant

(By Advocate: Shri Anil Khare)

Versus

1. Union of India through
Member of Board
Dak Bhawan, Sansad Marg
New Delhi.
2. Director, Postal Services
Headquarters
Office of the Chief Post
Master (General)
M. Circle, Bhopal (MP).
3. Senior Superintendent (Postal)
Hoshangabad Division
Hoshangabad (MP). ... Respondents

(By Advocate: None)

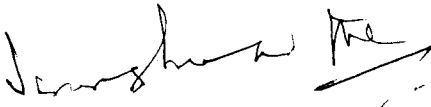
O R D E R (Oral)

By Shri Sarweshwar Jha, Member (A):

The applicant has impugned the respondents' Memorandum dated 21/23.11.2001 issued by Respondent No.3 whereby it has been conveyed that 'de novo' proceedings have been ordered in the case of the applicant. He has, accordingly, prayed that the said Memorandum may be quashed.

2. The facts of the matter, briefly, are that the applicant who was a Postal Assistant in

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the Head Post Office, Hoshangabad and who had been chargesheeted for having misbehaved with Senior Superintendent of Post Offices vide Annexure A2 and who had submitted a reply to the said chargesheet, denying the charges, and who had been exonerated of the said charges by the inquiry officer vide their inquiry report as furnished by the inquiry officer and on which necessary approval had been granted by the Senior Superintendent of Post Offices (Disciplinary Authority), Hoshangabad on 30.6.1999, was proceeded against afresh vide Memorandum of the respondents dated 21/23.11.2001 under Rule 29 of the Central Civil Services (CCA) Rules, 1965 and a fresh inquiry was ordered, as mentioned above. It is further observed that no reason has been mentioned by the Circle Office for initiating the inquiry afresh.

3. The respondents, in their reply, have mainly submitted the details of the incident which had taken place on 24.10.1996, in which the applicant is reported to have misbehaved with the Senior Superintendent of Post Offices and have said that the revision of the case was taken up by the Director, Postal Services (Headquarter) for the reason technical lacuna in the chargesheet regarding non-inclusion of material witnesses, etc.

It has been further submitted, on behalf of the respondents, that a fresh chargesheet under

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Rule 14 of the CCS (CCA) Rules, 1965 had been served on the applicant.

4. We have examined the submissions of both the sides and we find that the learned counsel for the applicant has cited the decisions of the Central Administrative Tribunal, Principal Bench in OA No.717/1998 passed on 17.9.2001 in which it has been held that 'de novo or a fresh inquiry is not permitted especially for bringing in additional evidence and producing witnesses as has been clearly laid down by the Tribunal in the case of S.P.Bansal v. Union of India & Ors. in TA No.368/1985, decided on 30.5.1986'. It is also further held in the aforesaid OA that:

"The respondents' right to have simultaneous or independent proceedings both under criminal law and under CCS (CCA) Rules cannot be questioned. It is also true that the nature of evidence required in these cases are different. The fact, however, remains that in the both criminal proceedings and in the first Departmental Enquiry, the charges were not proved. In spite of that after lapse of so many years the respondents are seeking to revive and keep the proceedings on by instituting a de novo or fresh enquiry, for which respondents alone were responsible and there is nothing on to prove that the applicant was in any way guilty of non-cooperation or delay during inquiry. As such the respondents' action cannot be upheld in view of the decision of the Hon'ble Supreme Court in the case of ~~Ashok Kumar~~ State of Madhya Pradesh v. Bani Singh & Others ... by Delhi High Court in the case of Ashok Kumar v. DDA (supra). As the respondents have taken more than ten years, without any reason for keeping the proceedings alive and have not made use of the opportunities given to them, we are not inclined to remit the case to them once again for similar exercise. The proceedings marked by illegality and delay have to fail.

Singhania

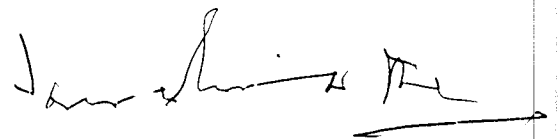
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12. In the above view of the matter the application succeeds and is accordingly allowed. The disciplinary proceedings initiated against the applicant and are continuing in terms of the respondents' letter dated 15.12.2000 are quashed and set aside with all consequential benefits in accordance with the law to the applicant. No costs."

5. We have heard both the learned counsel as well as for the Respondents for the applicant and perused the materials on record and, keeping in view the facts and the circumstances of the case and also keeping in view the fact that the question relating to 'de novo' enquiry has already been settled in the above mentioned case, we are of the considered opinion that the action of the respondents (Respondent No.2) in ordering a fresh inquiry against the applicant is not in order and, therefore, the impugned order of the respondents dated 21/23.11.2001 (Annexure A1) is quashed and set-aside.

6. With this, this OA stands disposed of, with no order as to costs.


(G. SHANTHAPPA)
MEMBER (J)


(SARVESHWAR JHA)
MEMBER (A)

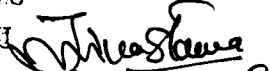
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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिनिधि.....

- (1) सचिव, न्यायिक सेवा, जबलपुर
- (2) कार्यवाही अधिकारी, न्यायिक सेवा, जबलपुर के काउंसल Anil Khane, Ashu
- (3) प्रकाशित विवरण के काउंसल KN Pethia, Ashu
- (4) कार्यवाही अधिकारी, न्यायिक सेवा, जबलपुर के काउंसल

सूचना एवं आवश्यक कार्यवाही हेतु


उप निरीक्षक 19-11-03