

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.28/02

Jabalpur, this the 27th day of July, 2004

C O R A M

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

Hem Raj Pagare
S/o Late Shri Thakur Prasad Pagare
Asstt. Sub Post Master
Jabalpur City
R/o 734 Choti Bajaria
Garha, Jabalpur (MP)

...Applicant

(By advocate Sh.Sujoy Paul)

Versus

1. Union of India through
its Secretary
Ministry of Communication
Department of Post
Dak Bhawan, New Delhi.
2. Member (P)
Postal Services Board
Dak Bhawan
New Delhi.
3. Post Master General
Raipur.
4. Director
Postal Services
Raipur
5. Sr.Superintendent
Post Offices, Civil Lines
Jabalpur.Respondents

(By advocate Sh.P.Shankaran)

O R D E R (oral)

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks the following
reliefs:

- (i) Summon the entire relevant records from the respondents for its perusal.
- (ii) Set aside the disciplinary proceedings and charge sheet (Annexure A1) and also the punishment order dated 25.9.2001 (Annexure A13).
- (iii) Direct the respondents to provide all consequential benefits to the applicant as if the impugned disciplinary proceedings are never initiated against him.
- (iv) Direct the respondents to treat the suspension period of the applicant as spent on duty and pay wages minus subsistence allowance to the applicant with interest on delayed payment.

Or

2. The brief facts of the case are that the applicant was appointed on 11.3.1967 as Postal Assistant. A charge sheet dated 6.11.1996 (Annexure A1) was served on the applicant under Rule 14 of CCS (CCA) Rules, 1965. In the said charge sheet, certain false and incorrect allegations were made against the applicant. The applicant replied the same by preferring a representation (Annexure A2). A perusal of the reply would show that there was no unconditional, unequivocal admission of guilt by the applicant. The disciplinary authority without application of mind treated the reply as admission of charges and without conducting departmental inquiry inflicted a punishment dated 29.11.96 (Annexure A3) on the applicant, whereby penalty of reduction of pay by two stages for four years was imposed. The applicant preferred an appeal dated 29.11.96. The appellate authority in turn passed an order dated 24.2.98 remitting the matter back to the disciplinary authority with a direction to conduct a de novo enquiry. Accordingly a de-novo enquiry started against the applicant and the enquiry officer submitted his report on 31.5.99 (Annexure A4). The enquiry officer found that charge Nos. 1 & 3 are not proved, whereas charge No.2 as proved. The report of the enquiry officer was sent to the Director, Postal Services, Raipur, who in turn issued a notice dated 11.8.99 (Annexure A5) with an intention to enhance the punishment against the applicant. The applicant submitted a reply on 2.9.99 (Annexure A6). The said authority ultimately passed an order dated 7.12.99 (Annexure A/6A) whereby the applicant's pay is reduced by two stages from Rs.6650 to Rs.6350 for two years with cumulative effect. The applicant preferred an appeal dated 10.1.2000 (Annexure A7) but the appellate authority issued a notice dated 31.7.2000 (Annexure A8) with an intention to inflict a



punishment of removal from service. The applicant by his representation dated 28.8.2000 (Annexure A9) sought time to prefer representation which was followed by his representation dated 1.9.2000 (Annexure A10). The PMG, Raipur by order dated 2.1.2001 (Annexure A11) imposed a punishment of reduction in pay in the pay scale of Rs.5000-8000 from reducing pay of the applicant by five stages from Rs.6650 for five years with cumulative effect. The applicant preferred a petition under Rule 29 of CCA (CCA) Rules to respondent No.2 (Annexure A12). The revisional authority passed an order dated 25.9.01 (Annexure A13) whereby the punishment imposed by the appellate authority is reduced as reduction in pay by one stage for one year. The disciplinary proceedings are liable to be struck down being violative of the principles of natural justice and against law. The applicant was placed under suspension for a period of one month during 1996 (Annexure A15) and the said suspension was subsequently revoked. The suspension was followed by a major penalty charge sheet which has ultimately resulted in the imposition of a minor punishment. In this view of the matter, as per the circular of the Government (Annexure A16), the applicant is entitled to get his suspension period regularised by getting all pay and allowances and benefits as if he was never suspended. But the respondents have not considered this aspect also. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that no proper procedure was followed by the respondents in conducting departmental proceedings at all. The appellate authority ordered on 24.2.98 remitting the matter back to the disciplinary authority with a direction to conduct a de novo enquiry and the charges against the applicant 1 & 3 were not

proved. Hence subsequently, the D.P.S., Raipur issued a notice dated 11.8.99 with an intention to enhance the punishment against the applicant. The applicant submitted his reply against it but this order was also against rules. Finally, the disciplinary authority passed an order dated 25.9.2001 (Annexure A13) reducing the penalty imposed by the subordinate authorities, which is also not legal. This order was not passed on the basis of the evidence against the applicant. The dissenting note Annexure A5 is also not having cogent reasons. Finally the revising authority had inflicted a minor penalty on the applicant. Even then, the period of suspension is not treated as on duty, while after passing the order of the aforesaid revising authority, the suspension of the applicant becomes infructuous and he shall be deemed as if he was never suspended and he is entitled for all consequential benefits arising out of it. The charges against the applicant are not proved. Hence the OA deserves to be allowed.

4. In reply, learned counsel for the respondents argued that the dissenting note dated 11.8.99 (Annexure A5), the order passed by the appellate authority remitting back to the disciplinary authority for conducting a de novo enquiry, the order passed by the D.P.S.Raipur issuing a notice with an intention to, enhance the punishment against the applicant, all these orders are perfectly in accordance with rules and the procedure laid down. No violation of any rule is committed by the respondents in conducting the departmental enquiry and in passing the impugned orders. Charge No.2 is admittedly proved against the applicant and it is a case of moral turpitude as postal service is



very important to the general public because the public have faith in depositing money in it. Our attention is drawn towards Annexure A2 in which the applicant has admitted his guilt and finally the revising authority has modified the punishment and it is reduced to a very minor penalty. Opportunity of hearing was given to the applicant and this is not a case of no evidence.

5. After hearing the learned counsel for both parties and careful perusal of the records, we find that the arguments advanced on behalf of the applicant about the dissenting note, the order of the appellate authority remitting the matter back to, the disciplinary authority for a de novo enquiry and again the order passed by the Director of Postal Services who issued a notice dated 11.8.99 (Annexure A5) with an intention to enhance the punishment against the applicant - all these actions were taken by the authorities perfectly in accordance with rules and laws and no irregularity or illegality was committed by them. The applicant was given due opportunity of hearing and against several notices/orders, he preferred representations/appeal and review petition. The orders passed by the authorities concerned are speaking orders and the applicant has admitted his guilt also as is shown by A-2. It is a case of moral turpitude. Public at large have confidence and faith in the postal department in depositing money. This is not a case of no evidence and the Tribunal cannot reappraise the evidence.



6. Under all these circumstances, we are of the opinion that the departmental enquiry proceedings were conducted in accordance with rules and the impugned orders regarding punishment of the applicant are perfectly legal and justified. So far as the entitlement to get the suspension period regularised by getting pay and allowances and other benefits as if the applicant was never suspended, this can be considered by the respondents according to law as lastly the applicant was awarded a minor punishment by order dated 26.9.2001 (Annexure A13) as reduction in pay by one stage for one year.

7. The OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

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

(1) राजित, उच्च स्वायत्त्व प्रदान कर्ता, जबलपुर
(2) उच्चेष्ठ श्री/श्रीमती/क्षु.....के दाउंसल
(3) प्रस्तावी श्री/श्रीमती/क्षु.....के दाउंसल
(4) ग्रंथपाल, ए.प.आ., जबलपुर व्यायाली
सूचना एवं आवश्यक चार्जर्चाही हेतु

उपर संग्रहीत
मुख्य संग्रहालय

ग्रन्थालय
मुख्य संग्रहालय