

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT SITTING AT GWALIOR

Original Application No. 1018 of 2000

Gwalior, this the 30th day of October, 2003

Hon'ble Shri Shanker Raju, Judicial Member
Hon'ble Shri Sarveshwar Jha, Administrative Member

Gokul Prasad, S/o. Shri
Surelal.

... Applicant

(By Advocate - Shri S.C. Sharma)

V e r s u s

The Union of India,
Through the Secretary,
Ministry of Dak (Communication)
New Delhi,
and two others.

... Respondents

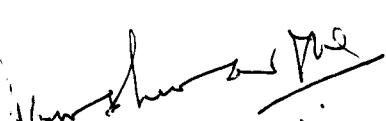
(By Advocate - Shri P.N. Kelkar)

O R D E R (Oral)

By Sarveshwar Jha, Administrative Member -

The applicant has preferred this Original Application against the order of the Director, Postal Services, Indore issued vide No. Vig./P.R.12/97-98/9, dated 31.03.1998, whereby he had enhanced the penalty imposed on the applicant by respondent No. 3 ~~XXXX~~ (the disciplinary authority) in suo-moto revision, which too without giving him an opportunity of hearing. He has accordingly prayed that the said orders placed at Annexure A-7 be quashed and that the respondents be directed to pay the arrears of difference of pay deducted than usual/normal pay to the applicant, releasing the increments withheld for the penalty period and also the arrears thereof with interest.

2. The applicant, while serving as Sub Postmaster in Sub Post Office Village Dinara, Tehsil Karera, Distt. Shivpuri during the period from 30.12.1987 to 15.10.1991, received a charge



sheet from respondent No. 3 vide his orders No. 11/4-III/91, dated 30.12.1991, copy of which is placed at Annexure A-1. He denied the charges and submitted a reply on 11.01.1992 vide Annexure A-2. The enquiry report was submitted on 08.03.1994 and the disciplinary authority, after perusing the enquiry report, imposed the penalty of reduction of pay from Rs. 1600/- to Rs. 1480/- for a period of 3 years from 01.04.1994 and also ordered that during the period of penalty no increments would be payable. Copy of the said orders is placed at Annexure A-3. The applicant submitted thereafter the revision petition dated 13.09.1994 against the said order of penalty to respondent No. 2 and the said respondent set-aside the penalty and remanded the matter for further enquiry from the stage of defence evidence. This led to another enquiry officer being appointed and who submitted his report on 09.06.1997 to the disciplinary authority. The disciplinary authority held a view that the report of the enquiry was not concerned with the charges and gave his findings and reasons for dis-agreeing with the findings of the enquiry officer. Finally, he converted the charges levelled against the applicant under Rule 14 to under Rule 16 of the CCS(CCA) Rules 1965 and thereafter imposed a minor penalty of Censure on the applicant. A copy of the said order is placed at Annexure A-4.

3. The applicant, however, did not file any appeal or revision before respondent No. 2 against the said order. However, it was after lapse of 5½ months that he took up the case on his own and he, motion, the respondent No. 2 Director, Postal Services, Office of the Postmaster General, Indore Region, issued a show cause notice dated 15.01.1998 for enhancement of punishment reducing the applicant's pay by two stages for two years. A copy of the show cause notice is placed at Annexure A-5. While the applicant submitted his reply to the show cause notice on



24.01.1998 requesting the said revisional authority to cancel the show cause notice on the ground that the preliminary report was not produced and proved by Coroboration by any witness, respondent No. 2 passed an order in revision under Rule 29 of the CCS(CCA) Rules, 1965 by enhancing the punishment from Censure to reduction of pay by one stage only from Rs. 5375/- in the scale of pay of Rs. 4500-25-7000/- to Rs. 5250/- for two years without cumulative effect. A copy of this order is placed at Annexure A-7.

4. The applicant has alleged that the action of the revisional authority in deviation of the decisions of the disciplinary authority enhancing the penalty imposed by the disciplinary authority, when the charges have not been proved, is beyond the powers available to him, as he had no authority or jurisdiction to punish the applicant with major penalty when the charge sheet had been served under Rule 16. His action is also violative of Sub Rule V and VI of Rule 11 of CCS(CCA) Rules when the disciplinary authority had converted the charges levelled under Rule 14 to Rule 16 of the CCS(CCA) Rules, 1965 and had thereafter imposed a minor penalty of Censure on him, he, while enhancing the penalty to reduction to a lower stage in the time scale of pay for a specified period, should have indicated whether the applicant will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments in his pay. He has also submitted that the order should have been clear whether the said reduction would be a bar to his promotion. As above mentioned issues were not clarified in the impugned order, his grievance is that he not only suffers reduction in pay but also loss of increments, i.e., double jeopardy. Accordingly, he has submitted that the orders passed by the appellate authority are fit to be quashed.

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5. From the reply submitted by the respondents it is observed that the penalty imposed by the disciplinary authority was considered to be not proper by the Director, Postal Services, Indore Region, and the revisional authority accordingly initially proposed the penalty of reduction of pay by two stages for two years without cumulative effect and the applicant was given time ^{for} submission of his representation against the proposed penalty. They have further stated that it was after considering the reply of the applicant that the revisional authority the Director, Postal Services Indore imposed the penalty of reduction of pay by one stage only for two years without cumulative effect vide his orders dated 06.08.1997. They have also stated that the applicant has not availed himself ^{of} all the remedies available to him, ^{i.e.,} seeking revision of the orders of the Director, Postal Services before the Member (Personal), Postal Services Board, Government of India. Accordingly, in their opinion, the application is premature.

6. On examination of the submissions made by both the sides, it is observed that the applicant, who was charged with charges like his having used unparliamentary language against the officials of the respondents on 15.10.1991 and also that he did not furnish the acknowledgment receipt when told to produce so on 28.01.1992 nor did he submit his defence, resulting in ~~ex parte~~ enquiry against him, had been initially proceeded against ~~XXX~~ under Rule 14 of the CCS (CCA) Rules, 1965 and was converted ~~XXX~~ under Rule 16 of the CCS (CCA) Rules, 1965, after finding that the charges levelled against him under Rule 14 of the said rules could not be proved. It is not clear from the submissions of the respondents as to what made the revisional authority to take a decision under Rule 14 of the said rules. It is also not clear from the

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submissions made by the respondents whether they took the charges against the applicant as being so serious as to proceed against him under the said rules. The revisional authority had also not cared to indicate the reasons specifically for his finding suo-moto necessitating to enhance the of penalty/Censure to reduction of pay first by two stages and then by one stage in the same scale of pay. It is also observed that the charges made against the applicant had not been corroborated by any witnesses. In the absence of the charges having been proved also by any documentary evidence during the course of enquiry it is quite inappropriate that the penalty of Censure has been enhanced to reduction of pay first by two stages and then by one stage in the same time scale by the revisional authority.

7. Under the facts and circumstances of the case and also after perusal of the material available on record as well as after hearing the learned counsel on both the sides, we are therefore, of the view that the revisional authority has passed his orders enhancing the penalty of Censure to penalty of reduction of pay by one stage in the same time scale without any specific and valid reasons duly indicated in his orders and, therefore, we are inclined to take a view that he has not exercised his powers properly.

8. Accordingly, we quash the orders of the revisional authority (Director, Postal Services, Indore Region) (respondent No. 2) dated 31st March, 1998 (Annexure A-7) and allow this Original Application partly. There shall be no order as to costs.

Sarveshwar Jha
(Sarveshwar Jha)
Administrative Member

S. Raju
(Shanker Raju)
Judicial Member