

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 116 of 2000

Jabalpur, this the 6th day of February, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Shri Rahat Ali, S/o. Syed Hasmat Ali,
aged 50 years, Ex-Postal Assistant, R/o.
41, Kabeerpura, Shahjehanbad,
Bhopal (M.P.).

... Applicant

(By Advocate - Smt. S. Menon)

V e r s u s

1. Union of India,
Through : The Secretary,
Postal Department,
Government of India,
New Delhi.
2. The Chief Post Master General,
M.P. Circle, Dak Bhavan, Maida
Mill, Hoshangabad Road, Bhopal.
3. The Senior Superintendent of
Post Offices, Bhopal Division,
Bhopal-3.

... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has sought relief to quash the orders dated 28.2.91 (Annexure A-2) and 6.1.2000 (Annexure A-7) and reinstate the applicant with full back wages and award all the consequential and ancillary service benefits with interest at the rate of 21% per annum.

2. The brief facts of the case as stated by the applicant are that the applicant was working as Postal Assistant at GPO, Bhopal. He has been imposed a penalty of compulsory retirement by Senior Superintendent of Post Office vice



order dated 28.02.1991 (Annexure A-2). Aggrieved by this he has filed an OA No. 125/1992, which was decided by the Tribunal on 22.06.1999. The Tribunal vide its order 22.6.99 has given the following direction :

"5. Having gone through the facts and circumstances of the case, we consider that the present case is an appropriate one that needs to be re-considered at the level of the appellate authority i.e. the respondent No. 2 to see if any punishment other than compulsory retirement could meet the ends of justice. The application is, therefore, partly allowed with the following directions :

- i) The order at A/2 dated 28.2.1991 shall stand set aside.
- ii) The case is remanded back to the appellate authority to reconsider the applicant's appeal dated 12.4.1991.
- iii) We direct the Appellate Authority to reconsider the appeal within a period of 3 months from the date of receipt of this order. Whatever may be the decision, the applicant shall be informed of the same accordingly."

It is seen that
~~We find~~ from the judgment of the Tribunal dated 22.06.1999, that the case had been considered on merit by the Tribunal. The case was remitted to the appellate authority only on the ground of quantum of punishment. In pursuance of the direction of the Tribunal the appellate authority has reconsidered the matter with regard to the quantum of punishment and has reiterated the punishment of compulsory retirement vide order dated 6th January, 2000. Aggrieved by this he has filed this Original Application.

3. We have heard both the parties and perused the records carefully.

4. Smt. S. Menon, learned counsel for the applicant has submitted that the Tribunal vide its judgment dated 22.6.99 has remitted the case back to the appellate authority to see if any punishment other than compulsory retirement

W could meet the ends of justice, as the Tribunal was

satisfied that the penalty of compulsory retirement is disproportionate. Inspite of that fact, the respondents have not complied with the direction of the Tribunal and have passed the order in a cryptical manner. She submitted that this amounts to over-reaching the Tribunal's direction and this ^{is} ~~was~~ a case of contempt, but, however, she has not filed the contempt petition and instead filed this Original Application. In support of her arguments she has relied on the judgment of the Hon'ble Supreme Court in the case of Regional Manager, U.P. SRTC, Etawah and others vs. Hotilal and another, (2003) 3 SCC 605.

5. The learned counsel for the respondents has submitted that the case of the applicant has already been considered by the Tribunal on merit in OA No. 125/1992. It was only on the ground of quantum of punishment that the case was remitted to the appellate authority to reconsider the case. According to them the charges against the applicant are very grave and the appellate authority has reconsidered the matter and has passed the order dated 6th January, 2000 confirming the penalty of compulsory retirement on the applicant. He has also drawn our attention to the judgment of the Hon'ble Supreme Court in the case of Union of India and others vs. Kulamoni Mohanty and others, AIR1999SC2114, wherein the Hon'ble Supreme Court has held that the "punishment of compulsory retirement imposed on employee on grounds of having committed breach of trust of amount payable to another employee - Tribunal found on facts, that finding regarding commission of breach of trust is based on material - Tribunal not disturbing said finding, but interfering with quantum of punishment - Commits illegality - Punishment imposed neither excessive nor

disproportionate - Tribunal cannot interfere with quantum



even within discretionary powers....."

The learned counsel has therefore submitted that in view of the law laid down by the Hon'ble Supreme Court in the aforesaid judgment the Tribunal cannot interfere with regard to quantum of punishment.

6. We have carefully considered the rival contentions of the parties and we find that the case of the applicant has already been considered by the Tribunal on merit and it was only on the ground of quantum of punishment the Tribunal remitted the case back to the appellate authority. The Appellate authority has reconsidered the matter and again imposed the penalty of compulsory retirement. It is a settled legal position by the Hon'ble Supreme Court that the Tribunal cannot re-appraise the evidence and also cannot go into the quantum of punishment.

7. For the reasons recorded above, we do not find any infirmity in the orders passed by the appellate authority as directed by the Tribunal in OA No. 125/1992 on 22.6.99. Accordingly, the Original Application is bereft of any merit and the same is dismissed. No costs.


(G. Shanthappa)

Judicial Member


(M.P. Singh)

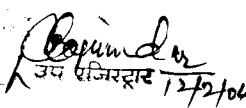
Vice Chairman

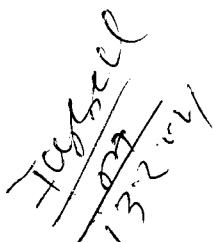
"SA"

- (1) शंखपा, ग. (2) शंखपा, ग. (3) शंखपा, ग. (4) शंखपा, ग.

सूचना द्वारा दिलाई गई

S. Meenakshi
P. Shankar


उप एजिस्टर 12/2/06


H. S. Rao
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