

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

CIRCUIT COURT SITTING AT BILASPUR (CHHATTISGARH)

Original Application No. 580 of 2000

Bilaspur, this the 25th day of September, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

Pancham Das Mahant, S/o. Late  
Sukhit Das Mahant, age about 47  
years, Permanent Resident of Vill :  
Chhote Kate Koni, Post : Chhote Kate  
Koni, Thana/Tehsil : Dabhra, Distt :  
Janjgir.

... Applicant

(By Advocate - Shri S.T.H. Rizvi)

V e r s u s

1. The Union of India, Rep. through  
Secretary, to Govt. of India,  
Ministry of Communications, Deptt.  
of Posts, New Delhi.
2. The Chief Postmaster General, M.P.  
Circle, Bhopal.
3. The Postmaster General, Raipur  
Region, Raipur.
4. The Director Postal Services,  
Mr. Rambharosa, O/O P.M.G.  
Raipur Region, Raipur.
5. The Supdt. of Post Offices,  
Bilaspur Division, Bilaspur.
6. Shri O.R. Bhonsle, Nirikshak,  
Grahak Sevayen, O/O SPO's  
Bilaspur & Inquiry Officer.

... Respondents

(By Advocate - Shri Om Namdeo)

O R D E R (Oral)

Justice V.S. Aggarwal -

The applicant was working as E.D. Branch Postmaster  
Chhote Kate Koni. A charge sheet was served on him under Rule  
8 of the EDA's (Conduct & Service) Rules, 1964. It was on the  
ground that the applicant did not account for the deposits  
of 5 MSY accounts amounting to Rs. 544/-. The same was

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deposited during the period from 05.10.1995 to 14.10.1995. Considering the report of the enquiry officer the disciplinary authority i.e. Superintendent of Post Offices, Bilaspur imposed the penalty of debarring the applicant from appearing in the departmental examination for the post of Postman and Postal Assistant for a period of two years.

2. The Director, Postal Services issued a notice to show-cause under Rule 16 of the EDA's (Conduct & Service) Rules, as to why an order be not passed of removing the applicant from service. 30 days' time was given to the applicant. It is not in dispute that thereafter on consideration of the reply vide the order dated 18th September, 1998 the applicant was removed from the civil post. The applicant preferred a revision petition which was also rejected.

3. By virtue of the present application the applicant seeks quashing of the said order passed by the Director, Postal Services and the revisional authority.

4. The learned counsel for the applicant has raised one point pertaining to argument namely that three months time is available to the alleged delinquent to prefer an appeal. The applicant had not preferred any appeal. Without expiry of the said period a show-cause notice has been served under Rule 16. According to the learned counsel this would not have been so done.

5. The answer is provided under Rule 16 of the rules referred to above. The said rules ~~in force~~ falls itself in the following terms:

\*16. Revision

Notwithstanding anything contained in these rules:

(i) the Central Government; or

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- (ii) the Head of the Circle, or Postmaster-General (Region), as the case may be; or
- (iii) any authority immediately superior to the authority passing the orders;
- (iv) any other authority specified in this behalf by the Central Government by general or special order and within such time as may be prescribed in such general or special orders;

may, at any time, either on its own motion or otherwise call for records of any enquiry or disciplinary case and revise an order made under these Rules, reopen the case and after making such enquiry as it considers necessary, may

- (a) confirm, modify or set aside the order,  
or
- (b) pass such orders as it deems fit :

Provided that no such case shall be reopened under this rule after the expiry of 6 months from the date of the order to be revised except by the Central Government or by the Head of the Circle or by the Post Master-General (Region) and also before the expiry of the time-limit of three months prescribed for preferring an appeal.

Provided further that no order imposing or enhancing any penalty shall be made by any Revisionary Authority unless the employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalty specified in Clauses (V) and (VI) of Rule 7 or to enhance the penalty imposed by the order sought to be revised, to any of the penalties specified in those clauses, no such penalty shall be imposed except after the enquiry in the manner laid down in Rule 8, in case no such enquiry has already been held."

The perusal of the same clearly shows that the provision of revision is available to any authority immediately superior to the authority passing the orders and at any time either on its own motion or otherwise call for records and revise an order. In the present case admittedly the appeal would lie to the Director, Postal Services. He was the immediate superior of the disciplinary authority. Therefore such a power of revision could be exercised by the said authority.

6. The principles of natural justice have not been ignored. The show cause notice giving a tentative opinion has been served on the applicant.

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7. To contend that the period of appeal should have expired i.e. 3 months before such a power could be exercised would not be correct. Rule 16 open with the non-substantive clause that "notwithstanding anything contained in these rules" ~~feathered~~. Therefore the powers under Rule 16 are not ~~feathered~~ by any other provision pertaining to filing of the appeal or not filing of the appeal. In fact after six months period even the <sup>1<sup>st</sup></sup> ~~certain~~ revisional powers cannot be exercised under the ~~certain~~ proviso to Rule 16 which we have quoted above. Therefore the authority concerned was well within its powers to exercise the same which has been done in pursuance of the powers under Rule 16. We find no reason to act on this explanation.

8. No other plea has been raised by the applicant. The OA is dismissed.

*Anand Kumar Bhatt*  
(Anand Kumar Bhatt)  
Administrative Member

*V.S. Aggarwal*  
(V.S. Aggarwal)  
Chairman

"SA"

प्रांतीकरण सं. ओ/ज्ञा....., असलपुर, दि.....  
प्रांतीकरण अन्तर्गत

- (1) अधिक, 1 वर्ष अवधि का विवाही वर्षा वर्षा
- (2) अधिक 1 वर्ष विवाही वर्षा....., असलपुर
- (3) प्रांतीकरण/विवाही वर्षा....., असलपुर
- (4) अधिक, 1 वर्ष विवाही वर्षा, असलपुर ज्ञा. दि.....  
सूचना एवं आवश्यक कार्यालयी वेद्य

*S.T.H. Rizvi Adm. Officer  
on vancled, Adm.*

*J. Musanna*  
उपराजिकाम  
6/18/03

*Recd  
7/18/03*