

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 03rd day of February, 2010

ORIGINAL APPLICATION NO. 346/2006

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Vijay Singh Dharwal son of Shri Ram Dayal aged about 63 years,
resident of 9/308, UIT Colony, Bhiwadi, District Alwar.

.....APPLICANT

(By Advocate: Mr. Amit Mathur)

VERSUS

1. Union of India through its Secretary, Department of Post, Dak Bhawan, New Delhi.
2. Principal, Chief, PMG, Rajasthan Circle, Jaipur.
3. Director, Postal Services, Jaipur Region, Jaipur.
4. Senior Superintendent of Post Offices, Alwar Division, Alwar.
5. Member (Personnel), Postal Services Board, Dak Bhawan, New Delhi.

.....RESPONDENTS

(By Advocate: Mr. T.P. Sharma)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following

reliefs:-

- "(i) This Hon'ble Tribunal may kindly be pleased to called for the entire relevant record of above case and perused the same and your lordships may kindly be pleased to accepted and allowed the OA and the impugned punishment order dated 31.3.2003 (Annexure A/1) passed by respondent no. 3 and the order dated 22.12.2003 (Annexure A/7 passed by respondent No. 2 may kindly be quashed and set aside.
- (ii) Any other order/direction of relief may be passed in favour of the applicant which deems just and proper under the facts and circumstances of the case, even the same has not been specifically prayer.

all

- (iii) The cost of application may also be awarded in favour of the applicant."

2. The grievance of the applicant is regarding the order dated 31.03.2006 (Annexure A/1) passed by the Disciplinary Authority whereby the penalty of reduction of pay by two stages in the pay scale of Rs.5000-8000/- for a period of nine months with effect from 01.04.2003 with cumulative effective was imposed. That order was also confirmed by the Appellate Authority. Thereafter the applicant preferred a Petition before Member (Personnel), Postal Services Board, Dak Bhawan, New Delhi, which according to the applicant is still pending. It was under these facts, the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The respondents have admitted the facts as stated above. It is further stated that the Petition of the applicant under Rule 29 of CCS (CCA) Rules, 1965 against the penalty of reduction of pay by two stages with cumulative effect, addressed to the Member (Personnel), Postal Services Board, New Delhi, was received in the office on 15.04.2004. It was further submitted that the petition was submitted to C.O. for onward submission vide office letter dated 21.06.2004 and the outcome of this petition is awaited.

4. In view of the stand taken by the respondents in the reply and also in view of the law laid down by the Constitutional Bench of the Apex Court in the case of **S.S. Rathore vs. State of M.P.**, AIR 1990 SC 10, the OA under the Administrative Tribunal's Act, 1985 is not

maintainable unless the remedy as provided under the statutory rules is not exhausted. Since the applicant has also sought statutory remedy under Rule 29 of the CCS (CCA) Rules, 1965, as such this OA cannot be entertained at this stage. Accordingly, the appropriate authority is directed to decide the Petition of the applicant under Rule 29 of the CCS (CCA) Rules, 1965 within a period of two months from the date of receipt of a copy of this order in case the same has still not been disposed of. In case the same is disposed of, the appropriate authority will communicate the said decision to the applicant.

5. With these observations, the OA is disposed of with no order as to costs. It is made clear that we have not gone into merit of the case and the case is disposed of only on the basis of observations made hereinabove.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ