

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 28th day of October, 2010

ORIGINAL APPLICATION NO. 421/2006

CORAM

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Nityanand Bhardwaj son of Shri Laxmi Narain ji aged about 49 years, resident of House No. 195, Scheme No. 2, Alwar. Presently working as Alwar Department of Posts as Extra Dept. Mail Peon cum Mail Carrier at Bus Stand, Alwar.

.....Applicant

(By Advocate: Ms. Kavita Bhati proxy to Ms. Swati Bhati)

VERSUS

1. Union of India through the Secretary of Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Department of Posts, Near Government Press, Jaipur.
3. The Senor Superintendent of Post Offices, Alwar Division, Alwar.
4. The Assistant Superintendent of Post Office, Alwar North Sub Division, Alwar.

.....Respondents

(By Advocate: Mr. D.C. Sharma)

ORDER

The applicant has filed this OA thereby praying for the following reliefs:-

- "(i) The Hon'ble Tribunal may kindly accept the present Original application and may call the entire record of the case and be examine judiciously.
- (ii) The Hon'ble Tribunal may kindly quash and set aside the charges leveled against the applicant as the applicant has not done any misconduct.
- (iii) The Hon'ble Tribunal may be pleased to quash and set aside the punishment orders dated 14.02.2005 (Annexure A/8), Appellate order dated 07.06.2005 (Annexure A/9) and Director Postal order dated 19.09.2005 (Annexure A/11), charge of

which is based on no evidence finding are perverse and the Chief & lone charge of loss caused to the Government non-existence ab-initio.

- (iv) The Hon'ble Tribunal may be pleased to order the respondents that stopping of the applicant to appear in the postman examination for no good & sufficient reason and also for no valid blame was an arbitrary & irrational action for which the applicant is debarred to appear in the postman examination on 03.04.2005 and 11.09.2005, therefore, the applicant be absorbed with retrospective effect as postman.
- (v) The Hon'ble Tribunal may also kindly direct by an appropriate order or direction to the respondents to allow the applicant to appear in the postman examination as if he had not crossed the age as the charges and penalty imposed upon the applicant is illegal and unjustified.
- (vi) The Hon'ble Tribunal may be please to direct the respondents to make the payment of salary for the intervening period from 01.04.2003 to 18.06.2003 as the impugned order of removal has already been quashed and set aside and further this intervening period may kindly be treated as duty.
- (vii) Any other order, direction or relief which may be deemed fit in the circumstances may also kindly be passed in favour of the humble applicant."

2. Briefly stated, facts of the case are that the applicant was charge-sheeted under Rule 10 of the GDS (C&E) Rules, 1001 vide ASP(N) Sub Dn. Alwar Memo dated 17.09.2001, on the allegation that while working as EDMC Delhi Gate, Alwar on 23.02.2000, he brought Inland letter cards worth Rs.1000/- from an unknown source and exchanged them with cash from the SPM Delhi Gate, Alwar. The Disciplinary Authority imposed the punishment of removal from service vide order dated 29.03.2003 but on appeal the case was remitted for denovo inquiry from the stage of inspection of document vide SSPOs Alwar Memo dated 16.06.2003. Denovo inquiry was conducted. Charges against the applicant stood proved. The Inquiry Officer held that there was no monetary loss in this case and ultimately, the

Disciplinary Authority imposed penalty of debarring in the examination for promotion to the post of Postman cadre for a period of three years vide Memo dated 14.02.2005. On appeal, the SSPOs Alwar i.e. Appellate Authority reduced the term of the penalty from three years to one year vide order dated 07.06.2005. The applicant filed Revision Petition against the Appellate order but the same was dismissed. It is these orders, which are challenged before this Tribunal.

3. Notice of this OA was given to the respondents. The respondents have filed their reply thereby justifying their action.

4. When the matter was listed on 08.04.2010, this Tribunal had passed the following order:-

"Heard counsel for the parties.

In this case applicant was imposed penalty thereby debarring him to appear in the examination for promotion to the cadre of Postman initially for a period of three years which penalty was modified for a period of one year. According to us, in view of the imposition of the penalty in the aforesaid terms, it will be futile exercise to go into the merits of the case as the applicant has not challenged the selection which the department may or may not have conducted for examination to the post of Postman during the currency of the penalty.

....."

5. Thereafter the matter was adjourned from time to time.

6. We have heard the learned counsel for the parties and have gone through the material placed on record. In view of the observations made by us vide order dated 08.04.2010, relevant

portion of which has been reproduced above, and the fact that currency of the penalty is already over in 2006 only and the applicant has not challenged the selection, if any, so conducted during the currency of the penalty, as such, we are of the view that the question whether the penalty of debarring the applicant for one year was justified in the facts & circumstances of the case is only an academic. So far as the prayer of the applicant ^{That is} he may be paid salary for intervening period i.e. 01.04.2003 to 18.06.2003 when he was removed from service and the said order of removal was set aside by the Appellate Authority and to treat the said period as duty, the respondents have passed the order dated 22.12.2005 (Annexure R/1) and 21.02.2006 (Annexure R/2) as to how the intervening period shall be regulated for the purpose of payment and continuity of service. The applicant has not challenged these orders, as such, no relief can be granted to the applicant qua this aspect.

7. For the foregoing reasons, the OA is disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

M.L. Chauhan
(M.L. CHAUHAN)
MEMBER (J)

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