

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH**

O.A.No.399/2012

Decided on : 03.10.2016

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. MEENAKSHI HOOJA, MEMBER (A)**

Mukesh Tilwani

son of Late Pesu Mal,

Aged about 48 Years,

Resident of 1-Jh-26, Vaisali Nagar,

Ajmer, last employed on the post of

Postal Assistant, HPO,

Madanganj, Distt. Ajmer



Applicant

1. Union of India
through Secretary to the Govt. of India
Department of Posts,
Ministry of Communications & IT,
Dak Bhawan,
Sansad Marg,
New Delhi-110001.
2. Senior Superintendent of Post Offices,
Udaipur Division,
Udaipur.
3. Senior Superintendent of Post Office,
Ajmer Division,
Ajmer.

Respondents

Present: Mr. C.B. Sharma, Advocate, for the applicant.
Mr. V.D. Sharma, Advocate, for Respondents.

O R D E R (oral)
HON'BLE MR. SANJEEV KAUSHIK , MEMBER (J)

1. The applicant has filed this O.A., inter-alia, for quashing of the notice dated 28.2.2012 and penalty order dated 1.5.2012 vide which penalty of compulsory retirement has been imposed upon the applicant and to direct the respondents to reinstate him in service with all the consequential benefits.
2. The respondents have filed a reply to which a rejoinder has also been filed.
3. At the very outset, learned counsel for the respondents raised a preliminary objection that the O.A. is not maintainable as applicant has challenged the penalty order without availing remedy of appeal available to him under rule 23 of the CCS (CCA) Rules, 1965.
4. Faced with the objection aforesaid, learned counsel for the applicant made a statement at the bar that he may be allowed to withdraw this O.A. with liberty to the applicant to make an appeal under the aforesaid formulation which may be decided by the respondents in accordance with rules and law. He, however, states that the respondents may be directed to take a view on merit of the appeal and not dismiss the same on technical plea of being barred by limitation. The learned counsel for the respondents did not raise any objection to the aforesaid plea, in view of the preliminary objection taken in the reply.
5. In view of the above, this O.A. is dismissed as withdrawn with liberty to the applicant to make an appeal within a

period of 15 days of receipt of a certified copy of this order, along with an application seeking condonation of delay in filing the appeal, which if filed, shall be examined and disposed of by the respondents in accordance with rules and law and by passing a reasoned and speaking order. The needful be done by respondents within a period of two months from the date of receipt of the appeal.

6. Needless to mention that the Court has not expressed any opinion on the merits of the case.

Place: Jaipur
Dated: 03.10.2016

HC*

