

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA 2864/2013

New Delhi, this the 10th day of July, 2018

Hon'ble Sh. K.N. Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member(J)

Shri Isham Singh
B-15 Rajpur Khurd
PO IGNOU, New Delhi -68 ... Applicant
(Through : Sh. Padma Kumar S. with Sh. P.S. Parihar)

Versus

1. Union of India through
Secretary
Ministry of Communication and Information Technology
Dak Bhawan, New Delhi - 1.
2. Director Postal Service (O)
Office of Chief Post Master General
Delhi Circle, Meghdoot Bhawan
New Delhi - 110001.
3. Senior Superintendent of Post Office
New Delhi South West Division
New Delhi - 21. ...Respondents
(Through : Dr. Ch. Shamsuddin Khan)

ORDER (ORAL)

Hon'ble Sh. K.N. Srivastava, Member (A)

The applicant at the relevant point of time was working as Peon at JNU New Campus, Post office, New Delhi. Besides the applicant, the other official posted at the said post office, was Sh. Surinder Kumar, Senior Post Master (SPM). For some alleged misappropriation, both Sh. Surinder Kumar and the applicant were subjected to Disciplinary Inquiry proceedings. Sh. Surinder Kumar was compulsory retired from service whereas the applicant vide the impugned (Annexure A-2) order dated

13.02.2012 of the Disciplinary Authority was dismissed from service. The applicant preferred an appeal before the Appellate Authority, namely, Director Postal Services (O) who, vide its impugned (Annexure A-1) order dated 15.01.2013, rejected the appeal. The applicant has challenged the disciplinary order (Annexure A-2) and appellate order (Annexure A-1) in this OA.

2. Sh. Padma Kumar S, learned counsel for the applicant at the very outset submitted that the impugned order (Annexure A-2) dated 13.02.2012 is not tenable in the eyes of law as the same has been passed by an incompetent Disciplinary Authority and that the relevant point of time one Sh. Sunil Kumar was the competent disciplinary authority. He further stated that from a plain reading of the Annexure A-2 order, it would be amply clear that Sh. Sushil Kumar has not passed the impugned order, he has simply communicated the decision taken by his predecessor, Shri Manoj Kumar, who had held the post of SSP, South West Division from 30.04.2008 to 22.08.2011. Even certain paragraphs of this order would clearly indicate that the decision in fact been passed by Sh. Manoj Kumar. A perusal of paragraphs at pages 43/K and 43/Q would indicate the inherent contradictions. He, thus, submits that the Annexure A-2 order has not been passed by the competent authority and on this ground itself, this order deserves

to be quashed and set aside and as a consequence of it, Annexure A-1 order also meets the same fate.

3. We have perused the Annexure A-2 order in great details. The contradictions pointed out by Shri Padma Kumar writ large on the face of this order.

4. It is not in dispute that Sh. Manoj Kumar held the post of SSP, South West Division from 30.04.1998 to 22.08.2011 and Sh. Sushil Kumar took over charge from him of the said post on 23.08.2011. It is, therefore, established that Sh. Sushil Kumar was the competent authority to pass the Annexure A-2 order on 13.02.2012. Accordingly, we quash and set aside the Annexure A-2 order for the aforementioned reasons and as a consequence thereof, appellate order dated 15.01.2013 (Annexure A-1) also stands quashed and set aside. We remand the matter back to the Disciplinary Authority to pass a fresh order. Needless to say that the fresh order has to be passed by the present incumbent of the post of SSP, South West Division, New Delhi. The order should be a reasoned and speaking one and it should take into consideration all the relevant materials available on record.

5. OA accordingly stands disposed of. No costs.

(S.N. Terdal)
Member (J)

(K.N. Shrivastava)
Member (A)