

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00840/2016

DATED THIS THE 7th DAY OF AUGUST, 2018

HON'BLE SHRI DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

G.Harish,
Aged about 48 years,
S/o Ganga Naik,
Assistant Post Master (Accounts)
Davangere HO,
Residing at Davangere City,
Davangere 577001.

....Applicant

(By Advocate Shri B. Venkateshan)

Vs.

1.The Union of India,
Represented by the
Secretary,
Department of Posts,
New Delhi – 110 001.

2.The Chief Post Master General,
Karnataka Circle,
Bangalore 560 001

3.The Director of Postal Services,
S.K.Region, Bangalore – 560 001.

4.The Superintendent of Post Offices,
Chitradurga Division,
Chitradurga 577 501.

5.The Superintendent of Post Offices,
Shimoga Division,
Shimoga 577201.

...Respondents

(By Shri Gajendra Vasu... Sr.Panel Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

1. Heard. The applicant was apparently under shadow of doubt. On 15.2.2008, when the DPC was held and a sealed cover procedure was adopted. The matter relates to defalcation of one lakh and odd in between the time of 2004 – 2007. Apparently, the applicant repaid this amount and the suspension order was withdrawn on 8.11.2007. Thereafter, while the DPC was being held, applicant was under contemplation of a disciplinary enquiry. Later on an enquiry was held and in 2009 he was inflicted with the punishment of withholding of 3 increments.

2. The applicant challenged that decision in OA.No.55/2010 in which a lenient view was taken and the matter remitted back to the respondents for denova enquiry. 2nd enquiry was held and a punishment of withholding of one increment was imposed on the applicant.

3. Now the case of the applicant is that in the interregnum applicant's juniors have been promoted in the year 2008 and he requests for parimateria consideration. It cannot be done for the very simple reason that until the punishment is worked itself out, applicant cannot be said to be free from the shadow of doubt. The words contemplation of disciplinary action means that the matter would have been set in motion by applicant's own admission which is made in the

pleadings itself that he had admitted his lapse and repaid the amount. Therefore, all along applicant had been under the shadow of doubt. The shadow of doubt can be cleared, only if, the punishment is imposed and the statutory period is lapsed. After which the next available DPC can consider the applicant's right or plight as the case may be. As it is, OA will not lie, as it is not meritorious.

3. OA is, dismissed. No order as to costs.

(DINESH SHARMA)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

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Annexures referred to by the applicant in OA No. 840/2016

- Annexure-A1:** Copy of SPOs memo dated 8.6.2014
- Annexure-A1a:** Copy of CPMG BG memo dated 31.12.2012
- Annexure-A2:** Copy of CPMG BG memo dated 15.2.2008
- Annexure-A3:** Copy of CPMG BG memo dated 20.2.2008
- Annexure-A4:** Copy of circle gradation list of LSG officials as on 1.8.2007
- Annexure-A5:** Copy of SPOs memo dated 19.2.2009
- Annexure-A6 :** Copy of applicant's representation dated 21.2.2009
- Annexure-A7 :** Copy of SPOs memo dated 29.5.2009
- Annexure-A8 :** Copy of applicants written stt. dated 13.7.2009
- Annexure-A9 :** Copy of PMG SK Reg.BG memo dated 31.12.2009
- Annexure-A10 :** Copy of CAT, BG order dated 4.2.2013 in OA.55/2010
- Annexure-A11 :** Copy of SPOs memo dated 3.5.2013
- Annexure-A12 :** Copy of applicant's representation dated 10.5.2013
- Annexure-A13 :** Copy of SPOs memo dated 21.6.2013
- Annexure-A14 :** Copy of SPOs memo dated 8.4.2014
- Annexure-A15 :** Copy of SPOs memo dated 19.5.2014
- Annexure-A16 :** Copy of applicant's representation dated 21.7.2014
- Annexure-A17:** Copy of applicant's representation dated 9.4.2014
- Annexure-A18:** Copy of applicant's representation dated 20.11.2014
- Annexure-A19:** Copy of SPOs memo dated 10.7.2015
- Annexure-A20:** Copy of applicant's representation dated 25.8.2015