

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A.NO. 487/HP/2012 Date of order:- 2.2.2018.

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mrs.P.Gopinath, Member (A).

Chanan Singh son of Shri Rulia Ram, Ex.GDSBPM, resident of V&PO
Pirthpur, Tehsil Amb, District Una(HP).

.....Applicant.

(By Advocate :- Mr. Jagdeep Jaswal)

Versus

1. Union of India through Secretary, Ministry of Secretary,
Ministry of Communication & Information Technology,
Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General HP Circle, Shimla.
3. Director Postal Services, HP Circle, Shimla.
4. Sr. Superintendent of Post Offices, Mandi Divisionn, Mandi.

...Respondents

(By Advocate : Shri V.K.Arya).

O R D E R(Oral)

Sanjeev Kaushik, Member (J):

This case was finally dismissed vide order dated
15.7.2014 and was remanded back by the jurisdictional High Court
on the ground that no particular findings have been returned by the
Tribunal on the contentions raised by the applicant in the OA.

2. Applicant Chanan Singh has filed the present Original
Application under Section 19 of the Administrative Tribunals Act,

1985, praying for quashing impugned orders dated 27.5.2011, 17.1.2012, 23.3.2012 (Annexures A-1 to A-3) and enquiry report dated 29.12.2010 (Annexure A-6). The applicant has further prayed that he be reinstated into service with all consequential benefits.

3. Facts as projected by the applicant are that the applicant who belongs to handicapped category joined the service of the respondent department as GDSBPM on 2.11.1993. In the year 2009, the applicant made a representation that due to heavy workload, a person be deputed to cope up heavy workload, but his request was turned down vide letter dated 9.6.2009. On 7.7.2009, Male Overseer-I, Amb, visited the office of applicant and found that 88 ordinary letters and two speed post letters received in the post office between 3.6.2009 to 7.7.2009 were not delivered to the addressees. On the basis of the not delivering the letters to the addressees, a charge-sheet dated 30.9.2009 was served upon the applicant for violation of Rule 66 & 71 of Chapter 4 of Branch Post Office Rules Vol.VII(re-print) for not delivering the letters. The applicant submitted his reply. An Inquiry Officer was appointed to look into the charges leveled against the applicant, wherein the applicant submitted that under compulsive circumstances, complete mail could not be disbursed by him. Copy of the enquiry report was supplied to the applicant vide letter dated 8.2.2011 to which he submitted his detailed reply on 14.2.2011. But without taking into account the reply submitted by the applicant, respondent no.4 passed the impugned order dated 27.5.2011 inflicting the punishment of removal from service. Feeling aggrieved against the order dated

27.5.2011, the applicant submitted detailed representation dated 5.7.2011 (Annexure A-9) wherein he had stated that no personal hearing was afforded to the applicant before passing the impugned order. The applicant in his representation also stated that there was no public complaint regarding his work and conduct. However, respondent no.3 vide its order dated 17.1.2012 rejected the appeal preferred by the applicant.

4. Feeling dis-satisfied, the applicant again filed the revision petition on 18.2.2012, but that too was rejected vide impugned order dated 21.3.2012. The applicant in his OA has alleged that the orders passed by the authorities are unreasoned, non-speaking and all the pleas raised by him have not been dealt with. The applicant has further alleged that the penalty imposed upon him is totally disproportionate to the alleged misconduct. Hence the OA.

5. Pursuant to notice, the respondents have contested the claim of the applicant by filing written statement, wherein they have stated that number of complaints had been received against the applicant and he was instructed time and again to work carefully and to provide satisfactory services to the customers. They have further stated that due to resignation of Manjeet Singh, GDSMD, Daulatpur Chowk, SO, Sh. Suram Singh, GDSMD Pirthipur, EDBO was ordered to work as GDSMD Daulatpur Chow, SO till further orders and the delivery work of Pirthipur EDBO was entrusted to applicant in addition to his own duties till further orders under the provision of rule for which the applicant will be entitled for combined duty

allowances. This arrangement was necessitated and made due to shortage of staff in another post office where the mail deliverer of Pirthipur BO was deputed for a short duration. Such recourses are resorted time to time for managing the affairs of the division and the incumbent with whom some additional work is attached duties cannot decline to work. Such combination of duties are permissible as per rules. Accordingly, the applicant had neglected the duty of delivery of alleged mails, which is a grave misconduct. The respondents have stated that appeal preferred by the applicant was rejected vide order dated 17.1.2012 after affording personal hearing to the applicant. They have thus prayed for dismissal of the OA.

6. The applicant has filed a rejoinder by generally reiterating the averments made in the OA.

7. We have heard the learned counsel for the parties and have perused the material placed on record.

8. Mr. Jaswal, learned counsel for the applicant vehemently argued that the impugned order of the appellate authority as well as the disciplinary authority are illegal, arbitrary as these orders have been passed in a mechanical manner without adverting to the pleas raised by the applicant. Therefore, he submitted the impugned orders be set aside and the matter be remanded back to the concerned authority to re-consider the matter on the grounds raised by the applicant. He also argued that while inflicting the punishment of removal from service, the disciplinary authority has

not considered the long service of the applicant and has inflicted the punishment of removal from service which is not commensurate with the charges levelled against the applicant, therefore, the punishment imposed upon the applicant is highly disproportionate. In this regard, the applicant has placed reliance on a judgment passed by the Hon'ble Apex Court in the case of **S.R.Tewari** versus **Union of India** (2013(7) Scale 417) and also in the case of **Deputy Commissioner, Kendriya Vidyalaya Sangathan & Ors.** versus **J.Hussain** (2013(10) S.C.C. Page 106).

9. Per contra, the respondents have reiterated what they have stated in the written statement.

10. We have given our thoughtful consideration to the entire matter and are of the view the impugned orders of the appellate authority as well as of the revisional authority cannot be allowed to sustain for the simple reason that the orders do not discuss the grounds taken by the applicant in his appeal. These two statutory authorities are bound to consider the pleas raised therein and have to answer the pleas raised by the concerned employee. These orders do not suggest that there is application of mind by the two authorities. They have also not considered the length of service rendered by the applicant with the respondent department and have approved the order of dismissal from service. Therefore, these orders are quashed and set aside and the matter is remitted back to the appellate authority to reconsider the appeal of the applicant on the grounds available therein and also to consider with regard to

punishment whether it commensurate with the charges levelled against the applicant or not.

11. The OA is disposed of with the above directions. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(P.GOPINATH)
MEMBER (A).

Dated:- 2.2.2018.
Kks

