

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.NO.83 of 2018  
Cuttack this the 23<sup>rd</sup> day of March, 2018

CORAM:

THE HON'BLE SHRI S.K.PATTNAIK, MEMBER(A)  
THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Sri Sankarsan Singh, aged about 57 years, S/o. Sri Budhia Singh, permanent resident of Vill/PO-Podasal, PS-Rajnilgiri, Dist-Balasore-756 040 – presently working as Postal Asst. (under suspension) Jaleswar H.O.

...Applicant

By the Advocate(s)-M/s.S.K.Ojha  
S.K.Nayak

-VERSUS-

Union of India represented through:

1. The Director General, Department of Posts, Government of India, Dak Bhawan, New Delhi.
2. Director of Postal Services in the Office of the Chief Post Master General, Odisha Circle, Bhubaneswar-751 001.
3. Superintendent of Post Offices, Balasore Division, Balasore-756 001.
4. Sri A.K.Swain, ASP(HQ)-cum-IO, in the office of the Supt. Of Post Offices, Mayurbhanj Division, Baripada-757 001.

...Respondents

By the Advocate(s)- Mr.S.Behera

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

The applicant works as a Postal Assistant and is under suspension from the Jaleswar Head Post Office. Disciplinary proceedings are currently going on against him. He has filed this O.A. primarily praying for a direction to the Director of Postal Services (HQ), Bhubaneswar and Superintendent of Post Offices, Balasore Division (Respondent Nos. 2 and 3 respectively) to replace the Inquiry Officer by withdrawing

Shri A.K.Swain, ASPO (HQ), Baripada and to conduct inquiry de novo.

2. Departmental proceedings under Rule-14 of CCS(CCA) Rules, 1965 were initiated against the applicant vide Memo No.F/4-1/2014-15/DISC dated 4.8.2015 while he was working as Postal Assistant at Balasore H.O.. The applicant had submitted a representation on 15.2.2016 alleging bias against an earlier Inquiry Officer, Shri B.K.Singha, ASPO(HQ) on the ground that Shri Singha was junior to him in the P.A. cadre and since he has worked as Inspector of Rajnilagiri Sub Division, he can influence the State Witnesses in the disciplinary proceedings. His representation was considered by the Superintendent of Post Offices, Balasore Division (Respondent No.3), who vide order dated 11.4.2016 appointed Shri Dibakar Singh, ASP In-charge of Balasore Sub Division as the Inquiry Officer. However, Shri Dibakar Singh, ASPO was subsequently changed due to his transfer to another Circle and Shri Ajay Swain, the then ASPO In-charge of Baripada Central Sub Division was appointed as I.O. vide order dated 1.3.2017. The I.O. has completed seven sittings in the inquiry proceedings by January, 2018. The applicant, however leveled charges of bias against Shri Ajay Swain, the present Inquiry Officer on the ground that he fixes sitting for the disciplinary inquiry at the residence of witnesses which causes inconvenience to the applicant and also during the sittings, the relatives of the

witnesses are allowed to be present thus vitiating the inquiry being conducted. He submitted a representation to the Director of Postal Services (HQ), Bhubaneswar (Res.No.2) on 22.8.2017 praying for a change of the I.O. The Respondent No.2 passed an order in Memo No.Vig/11-2/2015 dated 23.1.2018 rejecting the representation of the applicant and continuing with the present I.O. Aggrieved by this, the applicant has filed the present O.A. praying for the following reliefs:

- i) To admit the OA.
- ii) To quash the order of Respondent No.2 issued under Memo No.Vig/11-2/2015 dated 23.01.2018(Annexure-A/11).
- iii) To direct the Respondent No.2 and 3 nominate any other officer as Inquiry Officer withdrawing Sri A.K.Swain/ASPO(HQ), Baripada to act as Inquiry Officer.
- iv) To direct the Respondent No.2 & 3 to conduct the inquiry de novo from the stage and date i.e., from 21.07.2017.
- v) To direct the Respondents to complete the inquiry within a stipulated period.
- vi) To pass any other order/orders as deem fit and proper for the ends of justice.

3. The applicant has based his prayer mainly on the ground that the inquiry should be conducted at a place provided by the Organization and it is not permissible for the I.O. to fix the place of the inquiry in the residence of witnesses. Despite the objection raised by the applicant, the IO repeatedly fixed the place of inquiry in the residence of the witnesses and their

relatives were also allowed to remain present at the time of the proceedings. This shows that the I.O. has a biased mind and therefore, he should be changed.

4. This O.A. was heard on 7.3.3018 for admission. The learned counsel for the applicant presented his case alleging bias against the Inquiry Officer. The learned counsel for the respondents submitted that there is no rule against holding disciplinary proceedings in the residence of witness if the circumstances so warrant and that the applicant is deliberately trying to delay the proceedings by repeated requests for change of I.O.

5. We have heard the learned counsels for both the parties and perused the documents submitted by the applicant. It appears from the record that there was difficulty faced by the IO, PO and CO in reaching the venue when the inquiry was fixed at the residence of state witness at village Santragadia and due to lack of electricity facilities at the notified venue the daily order sheet also could not be printed immediately after the completion of inquiry for the day. On 21.7.2017, the I.O. had fixed the sitting of the inquiry in the residence of one Rahas Bihari Pradhan at Santragadia. Order passed by the Director of Postal Services dated 23.01.2018 shows that no witnesses attended the inquiry on that day and no business was transacted. Again another sitting was notified for 29.8.2017 at the residence of the state witness at Village Patnapada. The

applicant vide his application dated 3.8.2017 requested the IO not to hold inquiry at the residence of the witnesses Sri Pradhan citing inconvenience experienced in the earlier sitting of the inquiry. In view of this, the IO modified the venue of the inquiry for 29.8.2017 to Bahanga S.O. The DPS also noted that when the inquiry was conducted at Rajnilagiri SO on 10.7.2017 the son of one SW namely, Manjulata Sethi stood at the back of the charged official and the IO did not ask him to remain outside. Similarly, during the sitting of inquiry on 3.8.2017 the husband of another SW namely Smt.Ahalya Das was allowed to sit between the witness Smt.Das and the AGS.

6. The applicant has annexed the extract of the Hand Book for Inquiry Officer & Disciplinary Authorities, 2013 issued by the DOP&T. Under the heading "What arrangements are to be made for conducting hearing", the following has been prescribed:

"Even before the arrival of the parties, the IO should ensure necessary seating arrangements for conducting hearing. Preferably, the seating arrangement should be such that both the parties will have equal access to the IO and the IO can watch and hear both the parties comfortably. At any rate, the seating arrangements should not be such as to send any signal that IO is inclined in favour of either of the parties. Besides, it is desirable that no one other than those who are required for the hearing is present in the room while the hearing is in progress. This may not always be possible and it depends upon the space provided to the IO by the organization. However, IO should apply his mind to this aspect. Making a stenographer and a computer available for the recording

the proceedings is another aspect to be attended to by the IO".

7. In the present case although there is nothing under the rules to prevent the IO to hold an inquiry at the residence of a witness, such unusual arrangement should be avoided unless the witnesses are such that they cannot attend the inquiry at an official venue. Disciplinary inquiry should be generally conducted at a Government office where all arrangements prescribed in the Hand Book for Inquiry Officers & Disciplinary Authorities, 2013 can be ensured. Obviously, all facilities cannot be ensured in the residence of witnesses who are private persons. In the present case, there is nothing on record to show why the IO has decided to hold inquiry in the residence of SW. Subsequently, on the representation made by the applicant, the IO has re-notified the place of inquiry as Bahanga SO for the inquiry scheduled to be held on 29.8.2017. The applicant has suppressed this fact of modification of the venue to Bahanga SO perhaps to press for his prayer for change of IO. Inasmuch as the present IO is the 3<sup>rd</sup> IO in the disciplinary proceedings, and the order of the DPS shows that the I.O. has re-notified the place of inquiry to a Government office and has also prevented the presence of persons other than the witnesses at the time of inquiry, no further cause of action remains. However, the IO (Respondent No.4) is directed not to hold further inquiry at any venue other than a Government

office so that no further cause for grievance will arise. The IO (Respondent No.4) will also ensure that relatives of the SWs and outsiders are not allowed to remain present at the time of conduct of the inquiry.

8. With the above direction, the O.A. is dismissed at the stage of admission itself. No costs.

(DR.MRUTYUNJAY SARANGI)  
MEMBER(A)

(S.K.PATTNAIK)  
MEMBER(J)

*BKS*