



CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. O.A. 350/948/2018

Date of Order: 05.07.2018

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Sri Asim Kumar Midya, son of late Anadi  
Binod Midya, the SPM Kalagachia and now  
Functioning as Postal Assistant Haria SO  
Under Contai Postal Division, residing at  
Vill + P.O. Boga, Dist- Purba Medinipur,  
Pin- 721431.

.....Applicant



1. Union of India, service through the  
Secretary, Ministry of Communication  
and Information Technology, Department  
of Posts, 'Dak Bhawan', New Delhi-  
110011.
2. The Chief Post Master General, West  
Bengal Circle, having office at "Yogayog  
Bhawan", P-36, Chittaranjan Avenue,  
5<sup>th</sup> Floor, Kolkata- 700012;
3. The Director of Postal Services (Head  
Quarter), West Bengal Circle, having  
Office at "Yogayog Bhawan", P-36,  
Chittaranjan Avenue, 5<sup>th</sup> Floor, Kolkata-  
700012;
4. The Post Master General, South Bengal  
Region, having office at "Yogayog Bhawan",  
P-36, Chittaranjan Aneue, 5<sup>th</sup> Floor, Kolkata-  
700012;
5. The Superintendent of Post Offices, Contain  
Division, Post Office – Contai, District- Purba  
Medinipur, Pin- 721401;

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6. The Sub-Divisional Inspector of Post Office, Contai 2<sup>nd</sup> Sub-Division, Post Office Contai, District- Purba Medinipur, Pin- 721401;
7. Sri S. S. Hazra, I.O. & Retired Superintendent Of Post Offices, Tamluk Division, residing at Post Office- Midnapore, District- Paschim Medinipur, Pin- 721101.

.....Respondents.

For the Applicant : Mr. S.K Dutta, Counsel  
Mr. B. Chatterjee, Counsel

For the Respondents : None

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Heard Id. counsel for the applicant, none for the respondents.

2. The instant application has been filed by the applicant seeking the following relief:

"8(a) The order dated 18.10.2017 bearing No. F4/A-1/KCA/Disc/08/15, issued by the Superintendent of Posts, Contai Division being Annexure 'F' be set aside;

(b) The respondent and each of them particularly the respondent no. 5 being the Superintendent of Post Offices, Contai Division, Purba Medinipur be directed to immediately appoint any other Inquiring Authority in place of Mr. S. S. Hazra, retired SPOS, Tamluk Division;

(c) The respondents and each of them be directed to treat the inquiry held against the applicant on and from 18.10.2017 till date as bad in law and to commence the inquiry against the applicant from the state it stood on 18.10.2017 before the appointment of the said Mr. S. S. Hazra;

(d) The portion of the Disciplinary Authority conducted by Mr. S. S. Hazra, retired SPOS, Tamluk Division and the present Inquiring Officer on and from 18.10.2017 till date be held as null and void by this Hon'ble Tribunal for the reasons disclosed in this application;

(e) Costs of and/or incidental to this application be directed to be borne by the respondent authorities;

*[Signature]*

(f) Such further and/or other order or orders be passed and/or direction or directions be given, as to this Hon'ble Tribunal may deem fit and proper."

3. Ld. Counsel for applicant submits that the applicant had preferred a Bias Petition against the Inquiry Officer vide his representation dated 10.01.2018 followed by a representation dated 16.05.2018 (as annexed in Annexure A-9 collectively to the O.A) and that the respondent authorities, upon receipt of the same, had rejected his representation vide their order dated 01.05.2018 (annexed as Annexure A-10 to the O.A).

4. Ld. Counsel for applicant vociferously submits that the applicant in his representation dated 16.05.2018 and particularly in para (i) of the same had referred to the provision of O.M No. F. No. 142/40/2015-AVD.I dated 7<sup>th</sup> January, 2016 wherein it has been categorically laid down that Retired Officers of the Central Govt. below the rank of Deputy Secretary are not eligible for appointment as I.O. for conducting the Departmental Inquiries.

Ld. Counsel for applicant also draws our attention to the relevant OM dated 7<sup>th</sup> January, 2016 and particularly para 2 of the same (annexed in Annexure A-7 to the O.A).

5. Upon perusal of the order of the respondent authorities as annexed in Annexure A-10 to the O.A., it is seen, however, that the reference to the O.M. of DOPT dated 7<sup>th</sup> January, 2016 as made in applicant's representation dated 16.05.2018 has not been deliberated upon or discussed by the respondent authorities while passing their order. Accordingly we are of the considered view that the directions contained in the O.M of the Ministry of Personnel, Public Grievances and Pensions is required to be examined by the respondent authorities before proceeding with any further inquiry.

*hmk*

6. Ld. Counsel for applicant seeks liberty to prefer a comprehensive representation to Respondent No. 5 who is the Disciplinary Authority in this context. The applicant is hence hereby granted liberty to prefer such comprehensive representation within a period of 3 weeks after receipt of a copy of this order and the Respondent No. 5, after receipt of such representation, shall dispose of the same within a period of 4 weeks with a reasoned and speaking order in accordance with law, particularly with reference to the O.M. bearing No. F. No. 142/40/2015-AVD.I dated 7<sup>th</sup> January, 2016 of DOPT.

The decision so arrived at, shall be communicated to the applicant forthwith and until the respondent no. 5 decides on the appropriate inquiry authority, the proceedings will be kept in abeyance.

7. With these directions, O.M. is disposed of. There will be no order on costs.

(Dr. Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)

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