

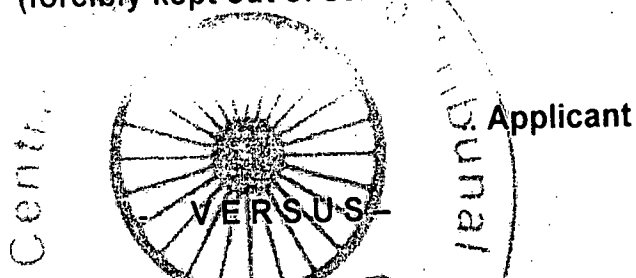
LIBRARY**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

No. O.A. 350/01315/2016

Date of order : 04.09.2018

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

Bidhan Chandra Das,
Aged about 59 years,
Son of Late Bimal Krishna Das,
Residing at Sonargaon Apartment,
2nd Floor, Flat No. 2,
166, Kshudiram Basu Road,
Post Office and Police Station – Barasat,
Kolkata – 700 124 and working to the
Post of Senior Superintendent of Post Offices
(SSPOs), South Hooghly Division,
Serampore, District – Hooghly,
Pin – 712201
(forcibly kept out of service since 4.9.2015)



- Applicant**
1. Union of India,
 Service through the Secretary,
 Department of Posts and Chairman,
 Postal Service Board,
 Dak Bhawan, Sansad Marg,
 New Delhi – 110 001.
 2. The Director General,
 Department of Posts,
 Dak Bhawan, Sansad Marg,
 New Delhi – 110 001.
 3. The Chief Vigilance Officer,
 Department of Posts, Dak Bhawan,
 Sansad Marg, New Delhi – 110 001.
 4. The Chief Post Master General,
 West Bengal Circle, Yogayog Bhawan,
 Kolkata – 700 012.
 5. The Post Master General,
 South Bengal Region, Yogayog Bhawan,
 Kolkata – 700 012;

6. The Senior Superintendent of Post Offices,
South Hooghly Division,
Serampore, District – Hooghly,
Pin – 712201;

7. The GM (PA & F),
West Bengal Postal Circle,
Yogayog Bhawan,
Kolkata – 700 012.

8. Smt. Arundhaty Ghosh,
Chief Post Master General,
West Bengal Circle,
Yogayog Bhawan,
Kolkata – 700 012.

9. Smt. Babi Lahiri,
Senior Superintendent of Post Offices,
Burdwan Division,
P.O. & Dist. Burdwan – 713101.

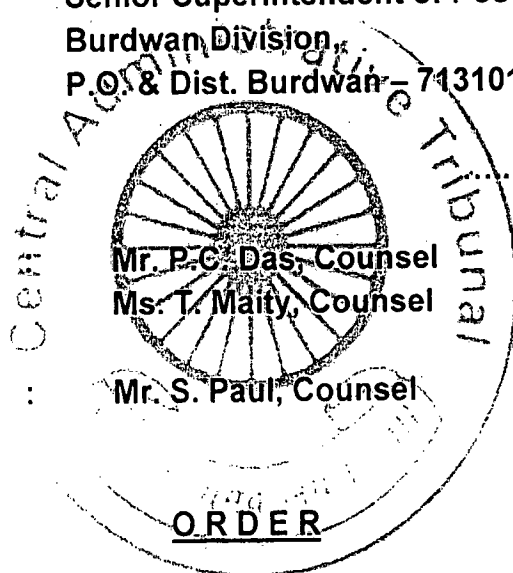
For the Applicant

For the Respondents :

Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

Mr. S. Paul, Counsel

Respondents



PER DR. NANDITA CHATTERJEE, ADMINISTRATIVE MEMBER:

The applicant has filed an Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

"(a) To issue direction to the respondents to draw and disburse the arrear salary of your applicant since September, 2015 to till date along with penal interest, treating the entire forcible period of absence since September, 2015 to till date as on duty and issue lawful joining order in promotional post (SSPOs, South Hooghly Division) of your applicant.

(b) To quash and/or set aside the impugned Memorandum of Charge-Sheet dated 4.1.2016 which has been issued by an incompetent authority against your applicant being Annexure A-13 of this original application.

(c) To quash and/or set aside the impugned penalty order of withholding of promotion dated 14.6.2016 (Annexure A-18) issued by the incompetent authority i.e. Smt. Arundhaty Ghosh, Chief Postmaster General, West Bengal Circle, Kolkata, who cannot act as a disciplinary authority as per

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Rule 12(2) of CCS (CCA) Rules, 1965 as because your applicant is belonged to IPS, JTS Group 'A' Cadre and Smt. Arundhaty Ghosh, Chief Postmaster General, Kolkata by imposing punishment against your applicant which is contrary to law and may be liable to quashed and/or set aside in the eyes of law being Annexure A-18 of this original application and to give all consequential benefits accordingly.

(d) To declare that the action taken by Smt. Arundhaty Ghosh, Chief Postmaster General, West Bengal Circle, Kolkata against the applicant in respect of issuing the impugned chargesheet (Annexure A-13) as well as penalty order of punishment (Annexure A-18), are absolutely bad in law and illegal.

(e) To declare that withholding of the salary of the present applicant since September, 2015, issuing unlawful charge sheet (Annexure A-13) and final order (Annexure A-18) and also not allowing your applicant to resume duty (as SSPOs, South Hooghly Division) to the promotional post which has issued by the higher authority of the postal department by approval of the President of India (Annexure A-12) by the office of the Chief Postmaster General, West Bengal Circle, Kolkata are absolutely bad in law and illegal and the respondent Nos. 1 and 2 be directed to take appropriate action against them for illegality committed by them for violation of constitutional provisions and different rules and laws of the land by not releasing the salary of the applicant and by not allowing the present applicant (who did not commit any single misconduct throughout his 37 years long span of service life) to join duty in the promotional post who will be retired from service with effect from 30th June, 2017.

(f) The Respondents Nos. 1 to 5 be directed to take appropriate action against Smt. Babi Lahiri, SSPOs, Burdwan Division (Respondent No. 8) for assuming charge of the SSPOs, South Hooghly Division at 1000 hrs. on 01.09.2015 without the knowledge of your applicant and violating Rule 42 of Postal Manual Vol. IV and other extant Rules. For this irregular act of Smt. Lahiri, the South Hooghly Division was headed by two Divisional Heads for the period from 1.9.2015 to 3.9.2015 as your applicant was also on duty for the said period.

(g) The respondent No. 7 be directed to provide copy of service book to the applicant.

(h) The respondent No. 5 be directed to sanction amount of withdrawal in accordance with application dated 23.7.2016 (Annexure -23).

OR

(i) Alternatively:

Whatever punishment has been imposed by Smt. Arundhaty Ghosh, Chief Post Master General, West Bengal Circle, Kolkata vide order dated 14.6.2016 (A-18), may be implemented.

Any other reliefs as deem fit and proper by the Hon'ble Tribunal."

2. Heard both Counsel, perused pleadings and documents on record.

[Signature]

The respondents, in addition to their reply to the O.A., have filed an affidavit on 25.6.2018 in response to directions of the Tribunal dated 7.5.2018 and the applicant has submitted a reply to the same. Written arguments have been filed on behalf of the applicant.

3. The case of the applicant, as canvassed by his Ld. Counsel, is that:

- (a) the applicant was promoted from the post of Assistant Director of Postal Services, South Bengal Region, Kolkata, to Junior Time Scale (JTS) of Indian Postal Service Gr. 'A' and posted on 19.12.2014 as Sr. Superintendent of Post Offices (SSPOs), South Hooghly Division.
- (b) That, at the time of discharging his duties in the post of SSPOs, South Hooghly Division, an incident had occurred on 27.8.2015 with respect to loss of one non-insured EMS Speed Post packet containing material related to Teachers Eligibility Test, 2015. Although the applicant had taken all steps in the interest of the Postal Department and had defended himself during a consequent enquiry held on 29.8.2015, he was reverted to the substantive post of Superintendent of Post Office Gr. 'B' vide orders dated 31.8.2015 and that the copy of the said order had never been served upon the applicant.
- (c) Thereafter on 1.9.2015, the respondents issued a memo vide which one Smt. Babi Lahiri, SSPOs, Burdwan Division, was directed to hold the charges of SSPOs, South Hooghly Division and the respondents, vide another order dated 1.9.2015, directed the applicant to join duties as Additional Director of Postal Services (III) (ADPS III) in the office of Chief Post Master General. Such Office Order was not served upon the applicant and he had obtained the orders through Right to Information Act, 2005.

That, the applicant submitted a detailed representation dated 15.9.2015 against the illegal orders of the CPMG, West Bengal Circle and that although on 17.12.2015, the applicant was directed to join his duties immediately as ADPS – III in the Office of Chief Post Master General, West Bengal Circle, it was not indicated as to which post the applicant was expected to join.

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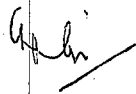
(d) That, thereafter, on 30.1.2015, a Presidential Order was issued vide which an order of promotion was issued in favour of the applicant to the post of Junior Time Scale (JTS) of Indian Postal Service in Gr. 'A'. In the said order of promotion, however, it was not indicated against which post the applicant was supposed to join and that, as it was a regular promotion order, the applicant was elevated to Indian Postal Service Gr. 'A'.

(e) That, thereafter, vide an Office Memo dated 4.1.2016, the Chief Post Master General, West Bengal Circle issued a charge-sheet in respect of the missing non-insured EMS Post packet of TET, 2015 and that, as by virtue of the regular promotion dated 31.12.2015, the applicant had become a Gr. 'A' officer, the charge-sheet could not be issued by the Chief Post Master General (CPMG), West Bengal Circle as the CPMG, West Bengal Circle was not the competent authority with regard to Gr. 'A' officers. The applicant replied on 12.1.2016 against the charge memo. On 14.6.2016, however, the CPMG, West Bengal Circle issued an punishment order against the applicant by withholding his promotion for the next one year with immediate effect.

The applicant thereafter represented against the same on 20.6.2016 and another representation was preferred on 27.7.2016 before the Member (Personnel), Postal Service Board. The applicant also submitted a detailed complaint on 21.7.2016.

That, although the applicant had preferred a petition on 1.2.2016 before the Hon'ble President of India with regard to the illegal action on the part of CPMG, West Bengal Circle, the said petition was not forwarded to the office of the President by the Respondent authorities.

(f) The applicant had applied for leave w.e.f. 4.9.2015 to 31.1.2016 treating the entire period as forceful absence from duty and thereafter represented on 28.2.2016 for disbursing his salary which was illegally and arbitrarily withheld by the Postal Department.



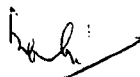
That, he also subsequently prayed for withdrawal of money from his GPF, for salary, as well as copy of his service book; none of which had been made available to the applicant till the date of filing the O.A. That, the applicant had also submitted an application of Voluntary Retirement on 3.9.2015. The respondents, however, did not accept his application for Voluntary Retirement from service.

Per contra, the respondents have argued as follows:-

(a) That, the applicant, while working as SSPOs, South Hooghly Division on purely temporary and officiating basis was identified as one of the subsidiary offenders based on a departmental investigation which, prima facie, revealed his failure to perform his codified duties on overall supervision and monitoring the job of handling, transmission and delivery of sensitive examination materials relating to Teachers Eligibility Test (TET) conducted by the West Bengal Board of Primary Education. As he was working as SSPOs, South Hooghly Division (Higher Post) on officiating capacity for less than one year, the applicant was reverted to a substantive cadre of PS-Gr. B on administrative ground with immediate effect and vide orders issued in accordance with provisions of GID (4) of Rule 11 of CCS (CCA) Rules, 1965 and he was posted as ADPS-III, Office of the PMG, South Bengal Region, vide orders dated 1.9.2015.

That, the applicant was directed on 2.9.2015 to join his assignment of ADPS-III, South Bengal Region immediately. As directed by the respondents, the SSPOs, Burdwan Division assumed the charge of South Hooghly Division on 1.9.2015 and the applicant formally relinquished his charge as SSPOs, South Hooghly Division, on 3.9.2015 (A/N) admitting, inter alia, in his correspondence addressed to the PMG, SB Region dated 3.9.2015 that he had actually learnt about the order of his reversion and transfer on 1.9.2015 itself.

(b) That, on being relieved from the post of SSPOs, South Hooghly Division, the applicant applied for Earned Leave on 3.9.2015 on grounds of mental disturbance and without furnishing any medical certificate. The said leave was



regretted on account of heavy workload pending at the level of ADPS-III, SB Region and the applicant was directed to join the post immediately vide respondents' order dated 4.9.2015. The applicant, however, continued to remain absent from his duties despite receipt of formal rejection of his leave application. Rather he applied for extension of Earned Leave for a further period of 15 days which was again regretted vide respondents' letter dated 20.11.2015.

While remaining absent from his duties, the applicant sent a series of complaint letters against different authorities. In response, the Director of Postal Services, South Bengal Region once again directed the applicant to report and to join his duties. The applicant applied for further extension of Earned Leave for an indefinite period w.e.f. 1.2.2016 through e-Mail which was again regretted reiterating directions to report to his duties. Reminders were issued on 8.6.2016 and 28.6.2016 elucidating no positive response from the applicant, who ultimately superannuated from service on 30.6.2017.

(c) That, consequent upon joining of the regular incumbent to the post of ADPS-III, SB Region on expiry of leave, the applicant was ordered to report to the R.O. (South Bengal Region) for further directions but the applicant neither joined the post of ADPS-III during the leave vacancy of the regular incumbent nor did he report to the R.O. for further posting till 12.9.2016.

(d) That, on 31.12.2015, the Postal Directorate had conveyed the order of promotion to JTS Gr. 'A' dated 31.12.2015 but para-2 of the Postal Directorate Memo clearly stipulated that, in case any vigilance/disciplinary case of the type referred to in DOP&T O.M. No. 22011/4/91-Estt.(A) dated 14.9.1992 circulated vide Directorate's Office Memo No. 25-19/88-SPG dated 13.10.1992 is pending against any of the officers, he should not be promoted before expiry of currency of punishment. In the process of obtaining vigilance clearance of the applicant, it was found, that on the basis of departmental enquiry in respect of loss of TET materials, the competent authority already signed a charge-sheet under Rule 16 of CCS (CCA) Rules, 1965 on 29.12.2015 against the applicant and the said

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order was dispatched on 4.1.2016 vide Memo No. Vig/Z-48/2015 dated 4.1.2016 with respect to his lapses in performing his codified duties. As such, there was no scope as per existing rules to give effect to his regular promotion.

(e) Following his reversion to the substantive cadre of P.S.- Gr. B, Chief Postmaster General, West Bengal Circle, being the Head of the Circle, is the competent authority to initiate minor penalty proceedings as well as to impose punishment under such proceedings against the officers belonging to PS Gr. 'B' cadre as per the Schedule of disciplinary authority published vide Gazette Notification conveyed under DG Posts No. C-32016/10/2006-VP dated 8.2.2007. The applicant retired on superannuation on 30.6.2017 (A/N). Keeping in view the punishment of withholding of promotion and his present status of unauthorized absence from duty, there was no scope of considering his regular promotion to the post of JTS, Gr. 'A'. The Postal Directorate, New Delhi had also instructed vide letter No. 4-2/2015-SPG dated 09.06.2016 to keep the order of his promotion in abeyance until is completely exonerated of the charges against him.

(f) Since the applicant was neither on leave nor had reported for duty, question of payment of arrear salary which he has claimed without actual performance of duties does not arise.

That, in respect of GPF withdrawal, the applicant sent an application for withdrawal of GPF through e-mail without submitting any such filled in form in original which is not normally sanctioned without original GPF withdrawal form duly signed by the official. Taking a lenient view for the circumstances mentioned in the application (e-mail) by the applicant, however, withdrawal was sanctioned by the competent authority in favour of the applicant vide memo No. PMG (SB)/A&P-B/GPF-120 dated 1.11.2016.

That, the Service Book has already been sent to the applicant through dated 07.11.2016 to his residential address and has reportedly been delivered on 9.11.2016.

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The respondents further contended that the O.A. being grounded on baseless allegations, misconceived and misleading information is liable to be dismissed.

ISSUE

The core issue to be resolved is whether respondent No. 8 namely, the CPMG, West Bengal Circle is competent or otherwise to act as the disciplinary authority in the context of the applicant.

FINDINGS

To examine the above issue, we examine the following Schedule of Delegation of Powers as provided in CCS (CCA) Rules, 1965, which is germane to the lis.

Serial Number	Description of service	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item Nos. in Rule 11)	
(1)	(2)	(3)	Authority (4)	Penalties (5)
7.	Postal Superintendents Service, Group 'B'	² [Director General Posts]	² [Director General Posts]	
8.	Postmasters' Service Group B	² [Director General Posts]	² Head of Circle [Director General Posts]	

2. Substituted vide G.I., Dept. of Per. & Trg., Notification No. 11012/11/88-Estt.(A) dated the 29th September, 1988.

From the above, it is clear that the competent authority to impose penalties (and penalties that it may impose with reference to item Nos. in Rule 11) under Rule 16 of CCS (CCA) Rules, 1965 against a regular PS Gr. 'B' officer is the Head of the Circle or Chief PMG, West Bengal Circle, in this case. Further, as clarified by Department of Posts, Ministry of Communication, Govt. of India vide their undermentioned letter dated 15.9.2016,

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No. 11-18/2016-SPG
Government of India
Ministry of Communications
Department of Posts
(Personnel Division)

Dak Bhawan, Sansad Marg,
New Delhi – 110 001.
Dated: 15.9.2016

To
The Chief Postmaster General,
West Bengal Circle,
Kolkata – 700 012.

Sub: O.A. No. 350/1315 of 2016 filed by Shri Bidhan Chandra Das before
the Hon'ble CAT, Kolkata Bench – regarding.

Ref: West Bengal Circle letter No. SFA/P-68/XXII dated 12.9.2016.

Sir,

I am directed to refer your office letter dated 12.9.2016 on the subject
cited above thereby seeking clarification as follows:-

"..... intimate the status of the Competent Authority who has ordered to
keep in abeyance the promotion order of Shri Bidhan Chandra Das."

2. In this regard, I am directed to convey that the Appointing Authority
in respect of the Junior Time Scale of the Indian Postal Service, Group 'A'
is the Hon'ble President. Further, as per delegation of powers, the order
regarding keeping the promotion of Shri Bidhan Chandra Das in abeyance,
in terms of DOP&T O.M. No. 22011/4/91-Estt(A) dated 14.9.1992, was
issued with due approval of the then Hon'ble Minister of Communication &
IT.

Yours sincerely,

(Manoj Sharma)
Assistant Director General (SGP)"

the appointing authority in respect of Junior Time Scale Officer
Group 'A' is the Hon'ble President of India.

(ii) Having inferred as to the competence of the authority with reference to Gr.
'B' and Gr. 'A' officers respectively, the next issue which is to be decided is that
at the material point of time of issue of the memorandum of charges as well as
imposition of penalty orders, what was the exact status of the applicant, namely,
whether he was a Gr. 'A' officer as claimed by him or as Gr. 'B' officer as argued
by the respondents.

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According to the applicant, he had been promoted on 31.12.2015 vide Annexure A-12 to the O.A. The relevant extracts of the said order is reproduced below:-

No. 4-2/2015-SPG
Government of India
Ministry of Communication & IT
Department of Posts
(Personnel Division)

Dak Bhawan, Sansad Marg,
New Delhi – 110 001
Dated: 31.12.2015

ORDER

Subject: Posting and allotment of Postal Service, Group 'B' officers on their promotion to Junior Time Scale (JTS) of Indian Postal Service, Group 'A' (Pay Band – 3: Rs. 15600-39100/- + G.P. Rs. 5400/-).

The President is pleased to order the promotion of the following officers of Postal Service, Group 'B' cadre to the Junior Time Scale (JTS) of the Indian Postal Service, Group 'A' (IPoS, Group 'A'), on regular basis in the Pay Band -3 : (Rs. 15600-39100 + Grade Pay of Rs. 5400/-) with effect from the date of assumption of charge and until further orders. Consequent upon their promotion, the officers are allotted to the Circles/Postal Directorate as mentioned against each:-

Sl. No.	Name of the officer (S/Shri)	Date of birth	Circle where working in PS Group 'B' cadre	Circle /Directorate to which allotted on promotion	Remarks
xxx	xxx	xxx	xxx	xxx	Xxx
24.	Bidhan Chandra Das	15.6.57	West Bengal	West Bengal	Retiring within a year
xxx	xxxx	xxx	xxx	xxx	Xxx

xxxx

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2. Vigilance/Disciplinary Case, if any

In case any Vigilance/Disciplinary case of the type referred to in DOP&T O.M. No. 22011/4/91-Estt.(A) dated 14.9.1992 circulated vide this Office Memo N. 25-19/88-SPG dated 13.10.1992 is pending against any of the officers, he should not be relieved for posting without obtaining specific orders from this office. The officers against whom any punishment is current except censure and recovery should not be promoted before expiry of currency of punishment. A report in this regard should be submitted immediately.

Xxxxxxxxxxxxx

(Manoj Sharma)
Assistant Director General (SGP)"

Hence, it is deciphered from the above mentioned order that:

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- (a) An officer so named and enlisted in the above mentioned promotion order could only be treated as a Gr. 'A' Office of India w.e.f. the date of assumption of charge and until further orders.
- (b) That, in case, any vigilance/disciplinary cases of the type preferred to in DOP&T O.M. dated 14.9.92 is pending against any of the officer, he will not be relieved for posting without obtaining specific orders from the office of the authority who had issued the promotion order.

In the case of the applicant, it is a fact (which has not been disputed by the applicant at any stage) that he did not assume the charge of JTS of Indian Postal Services Gr. 'A' consequent upon this order. On the contrary, the respondents have produced before us two orders, namely,

- (i) One dated 9.6.2016 and another dated 15.9.2016 (Annexure 'A-8' & 'A-9' to the affidavit filed by the respondents on 25.6.2018) whereby it was disclosed that as per delegation of powers, Hon'ble Minister of Communication and IT had approved that the promotion of the applicant, whose name figured at Srl. No. 24 of the order dated 31.12.2015, was directed to be kept in abeyance.
- (ii) Further, in response to a specific direction of the Tribunal that the order by which the promotion order dated 31.12.2015 was kept in abeyance with reference to the applicant was to be brought on record, the respondents have furnished a copy of the note sheet whereby the approval was accorded on 29.12.2015 which preceded the date of the promotion order.

Hence, we are of the considered view, that the applicant had not been promoted to Gr. 'A' Officer substantively consequent to the promotional orders dated 31.12.2015.

The respondents have argued that, on the date of issue of the charge sheet, the applicant was a Gr. 'B' Officer. We herein refer to the recommendations of the Transfer and Placement Committee formed for South Bengal Region (annexed as R-6 to the reply) whose recommendation is quoted as follows:-

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**" MINUTES OF TRANSFER & PLACEMENT COMMITTEE FORMED IN
THE SOUTH BENGAL REGION**

In pursuance of CO, W.B. Circle Memo No. SFA/B-2706 dtd. 31/8/15. Sri Bidhan Chandra Das Offg. SSPOs, South Hooghly Dn. Was ordered by the competent authority to be reverted to his substantive post in PS Gr. 'B' cadre on administrative ground & allotted to SB Region.

Sri Das was directed by the competent authority of RO SB Region on his reversion to the grade of PS Gr. – B vide RO memo of even no. dtd. 01/09/15. As per the order of the PMG, SB Region a transfer & Placement Committee has been formed comprising of Sri R. Umrao, DPS, SB Region, Sri Arun K. Mandal, ADPS-I, SB Region & Sri S. Das, ADPS-II, SB Region.

After careful consideration of all facts, circumstances and relevant factors, the committee recommends placement of the officer name below against the post mentioned as below:-

Sl. No.	Name of the officer	Present place of posting	Place of posting on transfer	Remarks
1.	Shri Bidhan Chandra Das	Offg. SSPOs, S. Hooghly Dn.	ADPS-III, O/o the PMG, SB Region, Kolkata – 12	Vice Leave Vacancy

(R. Umrao)
Director of Postal Services
O/o the PMG, SB Region, Kol-12

(Arun Kr. Mandal)
ADPS-I
O/o the PMG, SB Region, Kol-12

(S.Das)
ADPS-II
O/o the PMG, SB Region, Kol-12"

Consequent to the same, an order was issued on 1.9.2015 (Annexure R-5), which is extracted below:-

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE POSTMASTER GENERAL, S.B. REGION, KOLKATA-700012

No. PMG(SB)/SFA/GO/Arrgt/Loose Dated at Kolkata-12, the 1.9.15

In pursuance of C.O. Memo No. SFA/B-2706 dated 31.8.2015, following orders of the competent authority are hereby conveyed to have immediate effect:-

- (1) Shri Bidhan Chandra Das, who is officiating as SSPOs, South Hooghly Division purely on temporary and officiating basis for a maximum period of 11 months or till regular incumbent joins, whichever is earlier, is reverted to his substantive grade in PS Gr. B cadre on administrative ground with immediate effect. Sri Bidhan Chandra Das will report to the O/o the PMG, SB Region for further direction.
- (2) Smt. Babi Lahiri, Sr. Superintendent of Post Offices, Burdwan Division will hold the charge of the SSPOs, South Hooghly Division in addition to her own until further orders without any extra remuneration.

Relevant charge reports should be sent to all concerned:

Asstt. Director of Postal Services-I
O/o the Postmaster General,
South Bengal Region, Kolkata-700012"

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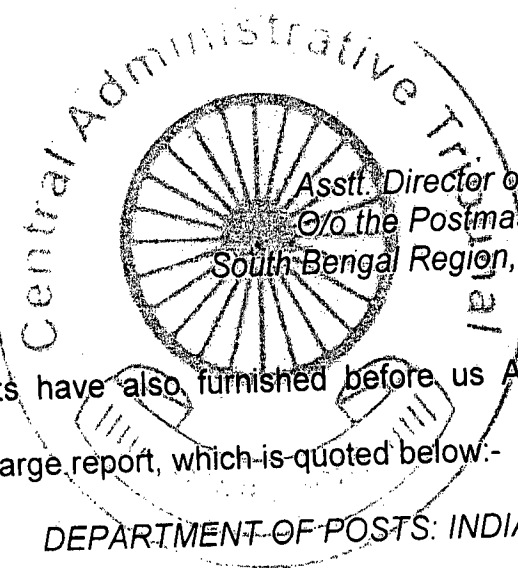
The transfer and posting order for PS Gr. B cadre was issued as in R-7 to the reply which is as below:-

“ DEPARTMENT OF POSTS, INDIA
OFFICE OF THE POSTMASTER GENERAL, S.B. REGION, KOLKATA-700012

No. PMG(SB)/SFA/GO/Arrgt/Loose Dated at Kolkata-12, the 1.9.15

In pursuance of C.O. Memo No. SFA/B-2706 dated 31.8.2015 and in consideration of the recommendation of the transfer & placement committee formed at RO, SB Region, the Postmaster General, South Bengal Region has been pleased to issue the following transfer/posting in PS Gr. – B Cadre to have immediate effect:-

Sl. No.	Name of the officer	Present place of posting	Allotted and posted	Remarks
1.	Shri Bidhan Chandra Das	Offg. SSPOs, S. Hooghly Dn.	ADPS-III, O/o the PMG, SB Region, Kolkata - 12	Vice Leave Vacancy



Asstt. Director of Postal Services-I
O/o the Postmaster General,
South Bengal Region, Kolkata-700012”

The respondents have also furnished before us Annexure R-10 to the reply, a copy of the charge report, which is quoted below:-

“ DEPARTMENT OF POSTS, INDIA

CHARGE REPORT

Certified that the charge of the Sr. Supdt. Of Post Offices, South Hooghly Dn., Serampore is relinquished by Sri Bidhan Ch. Das on 3.9.2015 (a/n, at Serampore in accordance with CO Memo No. SFA/B-2706 dated 31.8.2015 conveyed under RO memo No. PMG (SB)/SFA/GO Arrgt/Loose dated 1.9.2015.

(Bidhan Ch. Das)
Relieved Officer.

No. B-2/4 Bidhan Ch Das, Serampore the 03.09.2015
Copy of information and necessary action to:-
XXXXXX

(Bidhan Ch. Das)
Sr. Supdt of Post Offices,
South Hooghly Dn., Serampore-712201”

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It is seen from the charge relinquishment report that the applicant has signed the charge report both as relieving officer and also as the SSPO, South Hooghly Division, in compliance to respondents' memo No. PMG (SB) / SFA / GO/Arrgt/ Loose dated 1.9.2015. This particular memo as quoted above state that the applicant had been reverted to his substantive grade in PS Gr. 'B' cadre on administrative grounds with immediate effect.

Hence, the applicant's claim that he has no knowledge of such orders of reversion and that he had obtained such memos through RTI fall through. During hearing, the applicant, in response to a specific query, did not deny that he had signed the charge relinquishment order on 3.9.2015.

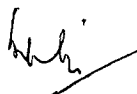
It is therefore established that the applicant was very much a PS Gr. 'B' Officer by virtue of the order dated 1.9.2015 consequent to which he had himself relinquished his charge on 3.9.2015.

(iii) In his Original Application, the applicant has alleged reasonable apprehension of bias against the respondent No. 8, namely, CPMG, West Bengal Circle, who had initiated the disciplinary proceedings against him and had imposed the penalty under Rule 12(2) of CCS (CCA) Rules, 1965.

Here, we are guided by **Chandra Prakash Singh v. Purbanchal Gramin Bank, (2008) 12 SCC 292** and **Mohd. Yunus Khan v. State of Uttar Pradesh & ors. (2010) 10 SCC 539, 551** wherein the Hon'ble Apex Court had laid down, inter alia, the following norms on the allegation of bias:-

"(i) Mere allegation is not enough. The party is under a legal obligation to place material in proof of its allegations."

As held in **Ranjit Thakur v. Union of India, (1987) 4 SCC 611**, bias may arise by reason of a predetermined or committed mind, or as observed in **N.K. Sareen v. Punjab National Bank 1995 (1) SCR 144 (Del)** and in **Ratan Lal Sharma v. Managing Committee Hariram (Co. Ed.) Higher Secondary School, (1993) 4 SCC 10**, where there is an apprehension that the decision maker is predisposed to impose punishment or because the decision maker was



interested in establishing the charge or by reason of personal hostility or other attending circumstances.

Given the above ratio, we test the ratio against the material before us. The applicant did not produce any material to prove his allegations. When he responded to the chargesheet, the applicant had not questioned the competence of respondent No. 8. Similarly, when he had submitted a petition to the President he had not raised any issue on the competence of the respondent No. 8 as disciplinary authority. The complaints made against the respondent No. 8 were all made after the penalty was imposed and hence, the reasonable apprehension of bias which should have been advanced at the stage of responding to the charge memo itself, is not substantiated in the case of the applicant.

The principles of natural justice were not violated in the proceedings as because the applicant had every opportunity to defend his case. It is not borne out by facts or law that the proceedings were conducted by an incompetent authority or that statutory provisions were violated in conducting the proceedings. No factors extraneous to the evidence had influenced the disciplinary authority. The charges that the applicant had failed in his duties of overall supervision and monitoring of the job of transmission and delivery of sensitive examination materials having been established, a minor penalty was imposed by the disciplinary authority, who admittedly, had taken a lenient view of the matter. Such minor penalty does not merit further consideration on grounds of disproportionate punishment following the ratio in *Ramanuj Pandey v. State of MP* (2009) 7 SCC 248 and *Bhagat Ram v. State of H.P.*, (1983) 2 SCC 442

Hence as held in *State of A.P. v. S. Sree Rama Rao*, AIR 1963 SC 1723, *B.C. Chaturvedi v. Union of India* (1995) 6 SCC 749 in *High Court of Judicature at Bombay v. Shashikant S. Patil* (2000) 1 SCC 416, there is little scope of intervention in this regard and in our considered view, we do not find it necessary to interfere with the orders of the disciplinary authority.

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The applicant has sought an alternative relief perhaps with the apprehension that the charges of incompetence against the disciplinary authorities may not be sustained. This prayer, does not require judicial intervention.

Accordingly, the O.A. is dismissed as on merit. The respondent authorities, however, are at liberty to dispose such dues as are admissible to the applicant as per law.


(Dr. Nandita Chatterjee)
Administrative Member

SP


(Bidisha Banerjee)
Judicial Member

