

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH

O. A. No. 050/00044/ 2018

Reserved on 11.01.2018

Pronounced on _16.01.2018

CORAM :

Hon'ble Shri Jayesh V. Bhairavia, Member (J)

.....
1. Gaurav Kumar son of Yogendra yadav, Postal Assistant, Patna, G.P.O- G.P.O Campus, Patna-800001 (Bihar)

.....**Applicants**

By Advocate : Shri M.P. Dixit

VERSUS

1. The Union of India through the Director General of Post, Ministry of Communication, Department of Post, Sanchr Bhawan, New Delhi-110001.
2. The Chief Post Master General, New Delhi Central Division, New Delhi-110001.
3. Director of Postal Services (O), office of the Chief Post Master General, Delhi Circle, New Delhi-110001.
4. The Chief Post Master General, Bihar Circle, Patna-800001.
5. The Director Postal Service (HQ), office of the Chief Post Master General, Bihar Circle, Patna-800001.
6. The Director, Postal Accounts, G.P.O.- Campus Patna-800001 (Bihar).
7. The Senior Superintendent of Post Offices, New Delhi Central Division, Meghdoot Bhawan, New Delhi-110001.
8. The Chief Post Master, Patna, G.P.O. G.P.O. Campus, Patna-800001.

.....**Respondents**

By Advocate : Shri H.P. Singh

O R D E R

Per Jayesh V. Bhairavia, Member (J): The applicant in this O.A prays for the following reliefs :-

"[8.1] That your Lordships may graciously be pleased to quash and set aside the impugned order dated 25.10.2017 as contained in Annexure A/1 passed by the respondent no.7.

[8.2] That your Lordships may graciously be pleased to direct/command the respondent to refund the amount if any recovered in the light of impugned order dated 25.10.2017 as contained in Annexure A/1.

[8.3] That your Lordships may graciously be pleased to direct/command the respondents to grant all consequential benefits.."

2. The brief facts of the case, as submitted by the applicants, are as below :-

[i] While the applicant was working as Postal Assistant, Sansad Marg, New Delhi, he was issued a charge sheet dated 29.12.2016 , being No. F-1/Disc./03/2015 for alleged misconduct under rule 3 (i)(ii) and (iii) of CCS (Conduct) Rules, 1964. Denying the allegation, the applicant had submitted a representation dated 12.9.2017 and 13.9.2017 [Annexure A/7 series]. Not satisfied with the representation / reply of the applicant, the competent authority, i.e respondent no. 7 herein, vide impugned order dated 25.10.2017 [Annexure A/1], imposed the following penalty upon the applicant :-

"It is clear that Shri Gaurav booked BNPL articles in " other without agreement" instead of proper BNPL Code which facilitated fraud to the tune of Rs. 201010.20/- on his part. I, therefore, order that the amount of Rs. 201010.20/- be recovered in instalments @ Rs. 10000/- [Ten thousand only] per month in 20 instalments and 21st instalment of Rs. 1010.20/- from the pay of the official".

[ii] Aggrieved by the above penalty order dated 25.10.2017 [Annexure A/1], the applicant had approached this Tribunal through the instant OA, praying for the relief as cited above.

[iii] The learned counsel for the applicant submitted that the respondent no. 7 had not provided the relevant documents to the applicant, though it was demanded and the applicant could not defend his case properly due to non-supply of the relevant documents which were relied upon by the disciplinary authority, hence, the impugned order is bad in law and the said order issued in violation of principle of natural justice.

[iv] It is further submitted that the applicant had preferred a departmental appeal before the appellate authority on 6.12.2017 [Annexure A/8] against the penalty order passed by

respondent no. 7. The said appeal of the applicant is still pending for consideration / adjudication before the appellate authority.

[v] The learned counsel for the applicant submits that the recovery of Rs. 10000/- per month has been ordered by the impugned order which is very harsh, considering the total emoluments of the applicant per month. He submits that penalty inflicted up on the applicant is mentioned as minor penalty but indeed it is a major penalty. The identically situated co-employees who were also charge sheeted along with the applicant and identical punishment was imposed on him i.e. recovery by way of instalments of Rs. 10000/- per month. The said co-employee, namely Shri Puran Prakash Postal Assistant, Sansad Marg, New Delhi had approached the Principal Bench, CAT, New Delhi by filing OA No. 3802 of 2017 and the said Bench, vide order dated 29.11.2017, was pleased to dispose of his OA with direction to the appellate authority to decide and dispose of the appeal of the applicant within a period of three month, with further direction that no recovery shall be effected from the applicant till the appeal is disposed of. The copy of the said order dated 29.11.2017 passed in OA No. 3802 of 2017 has been produced and the same is ordered to be taken on record.

The learned counsel for the applicant submitted considering the facts of the case, he will be satisfied if this OA is also disposed of on similar lines.

3. The learned counsel for the respondents appeared on the basis of advance copy of the OA served on him and submitted that the OA is premature as the appeal of the applicant is pending before the appellate authority.

4. In view of the above, I am of the considered opinion that the present OA is premature at this stage. However, the Principal Bench, CAT, New Delhi has disposed of a similar matter arising out of same set of charges, as discussed above, it will be appropriate to take a same view in the matter. Hence, I dispose of this

OA, at this stage, with a direction to the appellate authority to dispose of the appeal of the applicant filed on 6.12.2017 within a period of three months from the date of communication of this order in accordance with law and existing rules. It is further directed that no recovery shall be effected from the applicant in pursuance to penalty order dated 25.10.2017 till his appeal is disposed of. It is, however, made clear that this Tribunal has not gone into the merit of the case. No costs.

**[Jayesh V. Bhairavia]
Member(J)**

Mks/cbs/