

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

ORIGINAL APPLICATION NO.060/00024/2019
Chandigarh, this the 16th day of January, 2019

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)

Neena Rani,
aged 49 years Wd/o Shri Ashwani Kumar
R/o Village and Post Office Jassowal,
Tehsil Garhshankar,
District Hoshiarpur,
Pin Code – 144527.
(applicant is in Group "D")

(Present: Mr. Arun Takhi, Advocate)

Versus

1. Union of India through its Secretary,
Ministry of Communication and Information Technology,
Department of Posts,
Dak Bhawan,
New Delhi – 110003.
2. The Chief Post Master General,
Punjab Circle,
Sector 17,
Chandigarh – 160017.
3. The Senior Superintendent of Post Office,
Hoshiarpur Division,
Hoshiarpur,
District Hoshiarpur – 146001.

....Applicant

.....

Respondents

ORDER (Oral)
SANJEEV KAUSHIK, MEMBER (J)

1. The present Original Application (O.A). has been filed by the applicant challenging a charge-sheet dated 24.08.2018 (Annexure A-2), on the charges, inter-alia, that she had managed to put her son to work as Outsider on the vacant post of GDS MP-cum-Carrier Kot Fatuhi SO during 2016 to 2018 in different spells by giving an undertaking that she will be responsible for any kind of misdeed on part of her son and she also concealed that her son was also unauthorizedly working at Kot Fatuhi SO in the name of Jaspreet Singh S/o Ajit Singh VPO Jassowal during the period 1.11.2017 to 26.4.2018 etc.
2. The applicant has already filed reply to the charge-sheet and after examining the same, the respondents have decided to conduct an Inquiry into the charges and for that purpose, they have appointed Inquiry Officer, as per the relevant rule formulation.
3. Learned counsel for the applicant submitted that since she has been charge-sheeted for an action not done by her but by a third person, therefore, the charge sheet is liable to be set aside.
4. It cannot possibly be disputed here is that very serious and glaring allegations of grave misconduct are assigned to the applicant, as contained in the charge sheet and a regular departmental inquiry stands initiated against her. It is well settled law that a court of law cannot and should not interfere in a challenge to charge sheet unless it is shown that the same has been issued by an incompetent authority or in derogation to statutory rules and instructions.
5. Hon'ble Supreme Court in a celebrated judgment in the case of **Union of India Vs. Upendra Singh** (1994) 3 SCC 357, wherein

having considered the scope of judicial review, at the stage of charge sheet, it was ruled as under:-

"6. In the case of charges framed in a disciplinary inquiry the tribunal or court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be".

6. Again similar opinion was expressed by the Hon'ble Apex Court in case of **Union of India vs. Ashok Kacker** (1995) Supp 1 SCC 180. Thus, keeping in view the seriousness of allegations of grave misconduct alleged against the applicant, no grounds are made out to entertain the instant OA, at this premature stage, even without completion of enquiry and before exhausting all the departmental remedies, as held in the cases of **S.S. Rathore Vs. State of Madhya Pradesh** (1989) 4 SCC 582 and the **Govt. of A.P. and Others Vs. P. Chandra Mouli and Another** (2009) 13 SCC 272.

7. In the wake of above factual and legal position, we are of the considered view that the impugned charge-sheet cannot legally be set aside at this preliminary stage. Since there is no merit, as such the instant OA is hereby dismissed. However, nothing observed herein above, would reflect in any manner on the merit of the case in the enquiry proceedings, as the same has been so recorded for a limited purpose for deciding the present O.A. at this preliminary stage only.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Place: Chandigarh
Dated: 16.01.2019

HC*