

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 18 of 2013

**Present: Hon'ble Mr.Gokul Chandra Pati, Administrative Member
Hon'ble Mr.Swarup Kumar Mishra, Judicial Member**

Srinibas Bhoi, aged about 52 years, S.o Mandhata Bhoi, at-PO-Kabarapalli, Via – Gourpalli, Dist.- Sambalpur, presently working as Postman, Sambalpur HO, Dist – Sambalpur.

.....Applicant.

VERSUS

1. Union of India, represented through its Director General of Posts, Govt. Of India, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi , Pin – 110001.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist.- Khurda, Pin – 751001.
3. Director Postal Services, Sambalpur Region, At./PO/Dist.- Sambalpur,
4. Superintendent of Post Offices, Sambalpur Division, At/PO/Dist-Sambalpur,
5. Post Master Sambalpur HO, At/PO/Dist-Sambalpur.

.....Respondents.

For the applicant : Mr.D.P.Dhalsamant, counsel

For the respondents: Mr.M.R.Mohanty, counsel

Heard & reserved on : 3.1.2019

Order on : 10.1.2019

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The OA has been filed seeking the following reliefs :

- "(1) That the order dated 17.4.2012 under Annexure A/5 be quashed.
- (2) That the respondents be directed to treat the period of suspension w.e.f. 5.6.2006 to 3.5.2007 of the applicant as on duty.
- (3) And further be pleased to pass any other order/orders as deemed fit and proper."

2. We have heard Mr.D.P.Dhalsamant, learned counsel for the applicant. He submitted that the applicant was placed under suspension for the period from 5.6.2006 (Annexure A/1) and reinstated vide order dated 3.5.2007 (Annexure A/3) by order of Postmaster Sambalpur Head Office (HO) i.e. the respondent No.5. After his re-instatement on 4.5.2007, he was charge sheeted on 5.4.2008

and the punishment order was imposed vide order dated 31.12.2010 (Annexure A/4), which has not been challenged by the applicant. Thereafter, the applicant submitted a representation dated 3.10.2011, which was disposed of by the respondents vide order dated 17.4.2012 (Annexure A/5) informing that the period of suspension from 5.6.2006 to 3.5.2007 is to be treated as non-duty and he was entitled for subsistence allowance already paid to him for the period. The applicant challenges this order in this OA mainly on the following ground :

- (i) Under the CCS (CCA) Rules 1965, the respondent No.5 i.e. the Postmaster of Sambalpur HO is not the competent authority as he is subordinate to the applicant's appointing authority i.e. respondent No.4.

3. Learned counsel Mr.M.R.Mohanty appeared for the respondents. He submitted that the respondent No. 5 is the disciplinary authority in respect of the applicant as specified by the circular dated 27.8.1990 (Annexure R/4) in which under the heading 'Post Offices' at Serial No.3, it is mentioned that the Sr. Postmaster is the disciplinary authority competent to impose minor penalty for Postman (Group 'C'). Therefore as per this schedule, Postmaster is competent to suspend the applicant.

4. We have considered the submissions and perused the pleadings on record. As explained by the learned counsel for the respondents and mentioned in para 9 of the counter, the Postmaster in higher Selection Grade (in his own office) has been appointed as Disciplinary Authority in respect of the applicant. It was further mentioned that the respondent No.5 is a Postmaster, Sambalpur HO in higher selection grade office. In Annexure R/7 which has been enclosed along with the counter regarding review of the suspension of the applicant, respondent No.5 has also signed as Disciplinary Authority.

In view of the submissions of the respondents as above we are unable to accept the contention of the applicant that the respondent No.5 is not the

competent authority to suspend the applicant. In addition it is noted that the suspension order dated 5.6.2006 (Annexure A/1) has been issued and it has been acted upon. There is nothing is on record to show that the applicant had objected to the suspension order on the ground that the respondent No.5 was not the competent authority after it was served on him. Hence, raising this point after about seven years i.e. in 2013 to challenge the authority of the respondent No.5 to issue the order dated 5.6.2006 is barred by limitation/delay under the Section 21 of Administrative Tribunals Act, 1985.

6. For the reasons as mentioned above, the OA lacks merit and is liable to be dismissed. Accordingly the OA is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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