

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00055/2017

Date of Order: This, the 21st January 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

Sri Puspa Ranjan Roy
S/o Late Sidheswar Roy
Vill & P.O. – Kumarikata – 781360
Dist – Baksa (Assam).

...Applicant

By Advocates: Mr. D.N. Sharma & Mr. N. Baruah

-Versus-

1. The Union of India
Represented by Secretary
To the Government of India
Ministry of Communications & I T
Department of Posts, Dak Bhawan
New Delhi – 110116.
2. The Chief Postmaster General
Assam Circle, Meghdoot Bhawan
Guwahati – 1.
3. The Director Postal Service (Hq)
The Chief Postmaster General
Assam Circle, Meghdoot Bhawan
Guwahati – 1.
4. The Superintendent Post Offices
Nalbari Barpeta Division
Nalbari – 781335.

...Respondents

By Advocate: Mr. R. Hazarika, Addl. CGSC

O R D E R (ORAL)

NEKKHOMANG NEIHSIAL, MEMBER (A):

The present case has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- “8.1 The Hon'ble Tribunal be pleased to direct the respondents to set aside the punishment orders of the Disciplinary Authority i.e. respondent no. 3 issued under memo of No. F1-02/A/CASH/12-13 dated 20.02.2015.
- 8.2 Costs of the application.
- 8.3 Any other relief (s) which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.”

2. Heard Mr. D.N. Sarma, learned counsel for the applicant and Mr. R. Hazarika, learned Addl. CGSC for the respondents.

3. This is second round of litigation. The applicant who was appointed as Branch Postmaster Darangapar Branch Post Office by the Sr. Superintendent of Post Offices, Guwahati Division, Guwahati vide Memo No. A/X-218/EDBPM dated 03.05.1977 was working as such with effect from 11.12.1977. The charged was that, while he was working as Branch Postmaster Darangapar Branch Post Office under Kumrikata Sub Office during the period from 17.12.1977 to 23.08.2011, he could not produce the amount of Rs. 14,559/- before Sub Divisional (Postal) Nalbari, when the Verification of cash & stamps of

the Branch Office done on 23.08.2011. After having found guilty of the charges as admitted misconduct by himself, the applicant was removed from engagement by the Disciplinary Authority vide his order No. F1-02/A/CASH/12-13 dated 20.02.2015. Against the said punishment order, the applicant approached this Tribunal vide O.A. No. 040/00419/2016. This Tribunal had passed an order on 23.11.2016 wherein direction was issued to the respondents that applicant's pending appeal dated 20th August 2016 be considered by the Revision Authority and disposed of it within a period of three months from the date of receipt of copy of the order. The pending appeal of the applicant had been disposed of by the authority vide his order No. Staff/9-279/2016 dated 13th December 2016 rejecting his representation dated 20th August 2016.

4. The main plea of the present O.A. is that when the applicant was appointed by the Sr. Superintendent of Post Offices, Kamrup Division, Guwahati which is of Group 'A' service in Indian Postal Services, the authority who imposed penalty is of Group 'B' services and sub ordinate to Group 'A' services and therefore not competent to remove the applicant from engagement as per Article 311(1) of Constitution of India. During the hearing of the case, the learned counsel for the applicant was emphatically stressing on the point that applicant has been dismissed/has been imposed penalty by an authority who belongs to Group 'B' service whereas he was

appointed by an officer of Group 'A'. As such, punishment imposed on the applicant of removing from the engagement is violative of the Article 311(1) of the Constitution of India.

5. The learned counsel for the applicant relied the following citations:-

- (i) (1979) 4 SCC 289, Krishna Kumar Vs. Divisional Assistant Electrical Engineer and Ors.**
- (ii) (1977) 3 SCC 94, The Superintendent of Post Offices and Ors. Vs. P.K. Rajamma.**
- (iii) (2001) 9 SCC 180, O.K. Bhardwaj Vs. Union of India and Ors.**

6. On checking orders and records, it was found correct that the applicant was appointed by Sr. Superintendent of Post Offices vide Memo No. A/X-218/EDBPM dated 03.05.1978 and the order of removing him from engagement was issued by the Superintendent of Post Offices, Nalbari Barpeta Division vide Memo No. F1-02/A.Cash/12-13 dated 20.02.2015. Hence it is a fact that Sr. Superintendent of Post Offices is Group 'A' and Superintendent of Post Offices is Group 'B'. But it was categorically clarified that the Appointing Authority of the applicant is '*Head of the Division*' as per schedule of Appointing Authorities under Rule 4 of Gramin Dak Sevak (Conduct and Employment) Rules, 2001. This Head of Division is tenable by both Group 'A' and 'B' Officers. As such, the order of

imposition of penalty dated 20.02.2015 by the Head of the Division is found to be not suffering from any infirmity.

7. Considering the fact that the charged official had admitted the misconduct in written statement dated 23.08.2011 which has also been proved in the inquiry conducted and the authority who had imposed the penalty is competent as per the statutory provision, the O.A. is found to be devoid of merit. Accordingly, O.A. is hereby dismissed.

8. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)