

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00129/2015.

Date of Order: This, the 4th Day of December, 2018.

THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

Sri Borsing Teron
Ex-EDDA cum EDMC
Parakhowa Bazar BO
Via- Dokmoka, District: Karbi Anglong
Assam.

....Applicant.

By Advocate: Mr.A.Bhattacharjee

-Versus-

1. Union of India, Represented by the
 Chief Post Master General, Assam Circle,
 Meghdoot Bhawan, Guwahati-781 001.
2. The Postmaster General, Dibrugarh Region,
 Dibrugarh, Assam, PIN: 786 001.
3. The Director Postal Services
 O/o Postmaster General,
 Dibrugarh Region, Dibrugarh
 Assam, PIN: 786 001.
4. The Senior Superintendent of Post Offices,
 Nagaon Division, Nagaon-782 001 (Assam).
5. Assistant Superintendent of Post Offices,
 Diphu Sub-Division, Diphu (Disciplinary Authority).

... Respondents

By Advocate: Mr.S.K.Ghosh, Addl. C.G.S.C.

O R D E R (O R A L)

MANJULA DAS, MEMBER (J):

By this OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes the following prayers:-

“(i) The major penalty of dismissal from service awarded to the applicant by the Assistant Superintendent of Posts Offices, Diphu dated 27/09/1999 vide Memo No.A2/Parakhowa Bazar be set aside and quashed (Annexure-4) and the applicant be reinstated in service with full pay.

(ii) The Charge Sheet issued to the applicant dated 09/03/1999 vide Memo No.A2/Parakhowa Bazar by the Assistant Superintendent, Diphu be set aside and quashed.

(iii) The Appellate Order dated 06/02/2014 passed by the Senior Superintendent of Post Offices, Nagaon wherein the appellant authority vide letter No. B2/Appeal/Ngg Dn dated 19/02/14 had refused to entertain the appeal on the ground that it is time barred to set aside and quashed.

(iv) The Revisionary Authority i.e. Director of Postal Service, Dibrugarh Region, Dibrugarh passed the order dated 30/09/2014 wherein he rejected the petition of the applicant and uphold the punishment order of dismissal from service of the applicant passed by the Disciplinary Authority without any modification and without applying its mind be set aside and quashed.

(v) In the event of Your Lordships holds that applicant responsible at all the applicant prays that

considering his limited knowledge and considering small amount of money and stamps involved, the major punishment of dismissal may be reduce to any other minor punishment."

2. Mr.A.Bhattacharjee, learned counsel for the applicant submitted that while the applicant was appointed as EDDA cum EDMC in Parakhowa Bazar Branch Office in account with Dokmoka Sub Office in Karbi Anglong district under Nagaon postal Division, he was entrusted with the job of EDBPM. A disciplinary proceeding was initiated against the applicant in 1998 for shortage of Rs.2354.40 and was placed under put off duty and a preliminary enquiry was conducted on the said allegation wherein the applicant admitted his guilt. The enquiry officer in his enquiry report dated 10.04.1999 hold the charges leveled against the applicant as proved. The disciplinary authority imposed the punishment of removal from service upon the applicant vide order dated 27.09.1999. According to the learned counsel, applicant could not file appeal in due time due to mental illness of the applicant and when the appeal was filed the same was dismissed on the point of limitation. His revision petition so filed was also rejected

by upholding the punishment imposed the disciplinary authority.

3. According to the learned counsel, applicant read upto Class VII and for EDBPM the requisite qualification is matriculate. Despite knowing all these, the department entrusted the applicant the works of EDBPM. As the applicant was not acquainted with the job of EDBPM, some discrepancies arose for which he was proceeded with departmentally. Moreover, the disciplinary authority is not the competent authority to impose the punishment as he was not the appointing authority.

4. Mr.S.K.Ghosh, learned C.G.S.C. appearing for the respondents submitted that the claim of the applicant is hopelessly timed barred inasmuch applicant was dismissed from service after due enquiry following due process of law on 29.09.1999, applicant was silent for about 15 years on 06.02.2014, thereafter he filed appeal much belatedly which was rightly rejected on the ground of limitation. In support of his contention, learned counsel relied on the decision of the

Hon'ble Supreme Court in the case of **Union of India & Ors vs Nandlal Raigar, 1996 (4) SCC 586.**

5. We have heard the learned counsel for the parties, perused the pleadings, the documents placed on record and also the decision relied upon.

6. In the case of **Nandlal Raigar (supra)**, the Hon'ble Supreme Court has held as under:-

".... The limitation, therefore, would begin to run from the date of dismissal from service, if the dismissed delinquent employee does not avail of the remedy by impugning the order of dismissal within limitation, then it would not be open to him to challenge in the suit that the order of dismissal is in violation of the Rules, that he could ignore the order and then file the suit at any time at his pleasure."

(emphasis supplied)

In this case, the applicant was dismissed from service on 29.09.1999 but he filed the appeal on 06.02.2014 after a lapse of 15 years. Thus, the ratio of the said decision is attracted in this case. Learned counsel for the applicant failed to cite any contrary decision in favour of the applicant.

7. In the case of **Bhoop Singh vs Union of India & Others, 1992 AIR 1414**, the Hon'ble Supreme court has observed as under:-

"... Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief."

8. We have noted that from the date of dismissal from service the applicant was silent for about 15 years and thereafter filed his appeal. The maxim '*vigilantibus, non dormientibus, jura sub-veniunt*' (law assist those who are vigilant not those who are sleeping over their rights) is applicable in this case.

9. In view of the aforesaid decisions, we do not find any sufficient reason to interfere with the matter at this belated stage. Accordingly, the OA is dismissed.

10. There shall, however, be no order as to costs.

(NEKKHOMANG NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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