

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00994/2018

Dated Thursday the 26th day of July Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

&

HON'BLE MR. P. MADHAVAN, Member (J)

V.Ravichandran,
No. 29, 1st Main Street,
NSC Bose Nagar,
Moolakulam,
Reddiyar Palayam Post, Pondicherry 605010.Applicant

By Advocate M/s. R. Malaichamy

Vs

1.Union of India,
rep by the Senior Superintendent of Post Offices,
Pondicherry Division, Pondicherry 605001.

2.Shri S. Murugan,
Presenting Officer &
Assistant Superintendent of Posts,
Pondicherry Sub Division,
Pondicherry 605004.Respondents

By Advocate Mr. K. Rajendran (R1)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- "1. To call for the records of the 1st respondent pertaining to his order which is made in Memo No. F1/IV/4/09-10 dt. 02.12.2011 and the order made in No. F1/IV/4/09-10 dt. 10.07.2018 (in so far as it relates to continuance of the 2nd respondent as PO is concerned) and set aside the same, consequent to,
2. Direct the 1st respondent to appoint some other Presenting Officer in the place of 2nd respondent and to continue the inquiry and
3. To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case. "

2. Learned counsel for applicant submits that the applicant was dismissed from service following a departmental enquiry on the basis of alleged admission of charges by the applicant. The applicant had, however, alleged that he was forced and misled into admitting the charges and accordingly challenged the decision of the respondents dismissing him from service. The applicant approached the Tribunal in OA 1850/2014 which was allowed and the applicant was directed to be reinstated. The respondents filed WP 28847/2017 against the order which, however, was upheld by the Hon'ble High Court by an order dt. 12.02.2018. It was directed that the matter be enquired afresh from the stage of denial of the charges and orders passed in accordance with law after giving reasonable opportunity to the 2nd respondent to defend the case. The respondents, in compliance thereof have passed

Annexure A7 impugned order dt. 10.07.2018, inter alia rejecting the request of the applicant for change of presenting officer.

3. Learned counsel for applicant would submit that since the applicant had been dismissed from service earlier on the basis of facts as presented by the very same presenting officer who was now being made presenting officer again, he is bound to be prejudiced and the applicant apprehends that he would again be denied justice. Attention is drawn to para 5 of the impugned order which merely states as follows :

"....

5. In respect of change of PO, the representation of the CO has no merits.

.... "

Accordingly, the applicant would be satisfied if the respondents are directed to pass a reasoned and speaking order on the request for change of PO.

4. Mr. K. Rajendran takes notice for the official respondent and submits that the question of presenting officer being biased does not arise as in any case, his job is only to present the case. Even if he makes the presentation in a biased manner, the applicant could contest the facts presented by the presenting officer then and there or seek time. As long as inquiry officer is not alleged to be biased, the Tribunal has no reason to interfere, it is urged.

5. On perusal, it is seen that in the representation of the applicant dt. 02.07.2018 for change of PO, the applicant himself had not made any elaborate case for change of PO. He had merely sought a change of PO without explaining any reasons or justification for seeking such change. Accordingly, we are of the view that the ends of justice would be met at this stage if the applicant is permitted to submit a detailed representation with regard to his grievance explaining the basis for his apprehension that the presenting officer would influence the outcome in a manner prejudicial to the applicant's interests within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the competent authority shall pass a detailed and speaking order within a period of two months thereafter. Any inquiry conducted by the inquiry officer on the basis of presentations by presenting officer in the meantime shall be subject to the outcome of the representation.

6. OA is disposed of with the above directions at the admission stage.

(P. Madhavan)
Member(J)

(R.Ramanujam)
Member(A)

26.07.2018

SKSI