

**Reserved**

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.203/00310/2016**

Jabalpur, this Thursday, the 11<sup>th</sup> day of April, 2019

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Lalit Das Mahant, S/o Late Gyandas Mahant, aged about 45 years,  
Occupation – Ex- Employee (Postal Assistant), R/o G.P. Halwai,  
Adarsh Mukti Dham, Podibahar, Korba (C.G.) – 495377

**-Applicant**

**(By Advocate – Shri Ashok Kumar Shukla)**

**V e r s u s**

1. The Union of India through the Secretary, Department of Post and Communication, Dak Bhawan, Sansad Marg, New Delhi, India – 110001.

2. The Chief Post Master General, Chhattisgarh Circle, Raipur (C.G.) 492001.

3. Senior Superintendent of Post, Raipur Division, Raipur (C.G.) - 492001  
**- Respondents**

**(By Advocate – Shri Vivek Verma)**

*(Date of reserving order : 04.04.2019)*

**ORDER**

**By Navin Tandon, AM.**

The applicant is aggrieved by imposition of penalty of dismissal against him.

**2.** He has made the following submissions in the O.A:

2.1 The applicant was working as Postal Assistant and was dismissed on 29.11.2010 (Annexure A-2).

2.2 His appeal was also rejected vide order dated 07.05.2012 (Annexure A-3).

2.3 The applicant submitted his revision petition on 31.12.2013 (Annexure A-4).

2.4 Since his revision petition was not decided, he approached this Tribunal in OA No.203/00132/2015, which was disposed of vide order dated 12.02.2015 (Annexure A-5) directing the respondents to decide the revision within 90 days.

2.5 The revisions petition was rejected on 25.08.2015 (Annexure A-1).

2.6 The applicant submits that the impugned order of dismissal is against the principle of service jurisprudence.

**3.** He has prayed for the following reliefs in this O.A:

**“8. Relief(s) Sought:**

8.1 That, this Hon’ble Tribunal may kindly be pleased to quash the impugned order dated 25.08.2015 (Annexure A-1), directing the respondents to reinstate the applicant with all consequential service benefits and arrears of salary.

8.2 That, a command/direction may kindly be issued to the respondents for producing the entire records pertaining to the case of the applicant for the kind perusal of the Court.

8.3 Any other relief, which is deemed fit and proper may also be awarded to the applicant, including the cost of the application.”

4. The respondents, in their reply, have submitted that the applicant misappropriated the Government money and, accordingly, after following the due procedures, the order for dismissal from service was passed.

5. The applicant has submitted his rejoinder in which he has raised the point that the officer, who had passed the dismissal order as Disciplinary Authority, was not competent to do so.

6. The case was heard for sometime on 26.09.2018. The learned counsel for the applicant had raised the issue regarding the competency of the officer to issue the dismissal order as Disciplinary Authority. Accordingly, we had directed the respondent No.2 to file affidavit qua the fact regarding the competency of Shri S.K. Soni, who has passed the order as a Disciplinary Authority regarding the dismissal of the applicant at the relevant date, i.e. 29.11.2010. The said affidavit was filed on 10.01.2019 to which the learned counsel for the applicant had

prayed for time to seek instructions. Subsequently, the matter was heard and reserved for orders on 04.04.2019.

7. Learned counsel for the applicant emphasized on the point that Shri S.K. Soni, who signed the order as Disciplinary Authority, was not competent to do so. He relies on the following documents to prove his point:

7.1 Shri S.K. Soni was promoted to the grade of Junior Time Scale of Indian Postal Services Group 'A' for 11 months on 03.03.2009 (Annexure A-9).

7.2 Department of Posts, in their letter dated 18.08.2004 (Annexure A-10), has asked all the Heads of Circle for strict adherence to the instructions issued by the DoP&T in cases of ad-hoc appointments. As per DoP&T's instructions, ad-hoc promotions to be limited to one year only and in case it is envisaged to extend the ad-hoc arrangement beyond one year, approval of DoP&T is required in advance.

7.3 The respondents, vide their letter dated 23.02.2012 (Annexure A-12), have supplied the information under RTI, which states that no approval has been granted by the SPG section in respect of Shri S.K. Soni to officiate him for longer and indefinite duration in JTS grade.

8. Through above submissions, learned counsel for the applicant tried to prove that since Shri S.K. Soni was promoted on 03.03.2009 (Annexure A-9) and has continued to be at the post for

more than one year, without approval of DoP&T, hence, the dismissal order (Annexure A-2) has not been issued by an officer competent to do so.

9. Learned counsel for the respondents submitted that the Chief Post Master General (respondent No.2) has submitted his affidavit, which makes it clear that Shri S.K. Soni was competent to issue dismissal order as Disciplinary Authority.

10. Learned counsel for the applicant placed reliance on a decision of Hon'ble High Court of Chhattisgarh in the case of **Laxmi Naranay Pandey vs. State of Madhya Pradesh and others**, 2013 (1) CG.L.R.W 316 and the judgment of Hon'ble High Court of Madhya Pradesh in **Ramdayal Sharma vs. Gwalior District**, 2000 CJ (MP) 985, to say that when the order of dismissal from service has been issued by an officer, not competent to do so, it is null and void.

11. On the other hand, learned counsel for the respondents placed reliance on a decision of Hon'ble Apex Court in **Mihir Kumar Hazara Choudhury vs. Life Insurance Corporation and another**, (2017) 9 SCC 404 and submitted that fiscal misconduct is a serious matter.

**12.** We have considered the arguments advanced by both the parties.

**13.** This is a case of misappropriation of Government money. The case of the applicant is that Shri S.K. Soni, who has issued the dismissal order, was not competent to do so. The affidavit filed by respondent No.2 reads as under:-

“**2.** That the applicant Shri L D Mahant was dismissed from service on 29-11-2010 by Shri S K Soni as a Sr Supdt of Post Office Raipur division, Raipur. Document enclosed **AS D/2.**

**3.** That the Shri L D Mahant Ex PA was appointed by the Sr Supdt of Post Offices Raipur Division Raipur in the post of Postal Assistant and the punishment of Dismissal From Service was also awarded by the Sr Supdt of Post Offices Raipur Division Raipur.

**4.** That Shri S K Soni was working as Sr Supdt of Post Office Raipur Division Raipur on the date of issue of punishment order and he was also the competent authority to impose the Punishment of Dismissal Order From service on the Applicant. Document enclosed **As D/3.**

**13.1** The document D-3 is the promotion order of Shri S.K. Soni, which was issued on 11.02.2010 for a period of 11 months (i.e. less than one year).

**13.2** Perusal of the office order dated 11.02.2010 (Annexure D-3) very clearly indicates that Shri S.K. Soni is being promoted in the

grade of Junior Time Scale of Indian Postal Services, Group-A, purely on temporary and ad-hoc basis for a period of 11 months. Therefore, on the said date, i.e. 29.11.2010, Shir S.K. Soni had not completed 11 months from the date of his ad-hoc promotion and, therefore, was competent to issue the dismissal order.

**14.** It is also clear that the documents filed by the applicant with his rejoinder, are not relevant as Shri S.K. Soni did not continue in the Junior Time Scale continuously from 03.03.2009 (Annexure A-9) till the date of passing of the dismissal order, thereby violating the instructions of the Department communicated on 18.08.2004 (Annexure A-10).

**15.** In view of the above, we do not find any illegality in the impugned order of dismissal dated 29.11.2010 (Annexure A-2), which has been subsequently affirmed by the Appellate Authority on 07.05.2012 (Annexure A-3) and the Revisionary Authority on 25.08.2015 (Annexure A-1).

**16.** Accordingly, the O.A is dismissed. No costs.

**(Ramesh Singh Thakur)**  
**Judicial Member**  
am/-

**(Navin Tandon)**  
**Administrative Member**