

**Central Administrative Tribunal  
Circuit Bench, Ranchi.**

OA No. 051/00185/2015

MA No. 051/00078/2017

Order reserved on: 10.09.2018  
Order pronounced on : 19.12.2018

***Hon'ble Mr. A.K.Patnaik, Member (J)***  
***Hon'ble Mr. Pradeep Kumar, Member (A)***

Anil Kumar Singh  
S/o Late Basudeo Prasad Singh,  
Resident of Flat no.304, Rameshwaram Apartment,  
South Office Para,  
PO & P.S. Doranda,  
District-Ranchi (Jharkhand)  
Presently posted as  
Director Postal Services (BD/Technology), IPS  
In the office of the Chief Postmaster General,  
Orissa Circle, Bhubneshwar,  
Orissa – PIN 751001.

... Applicant

(By Advocate: Sh. H.K.Singh)

Versus

1. Union of India through  
The Director General,  
Govt. of India,  
Ministry of Communication,  
Department of Post, Dak Bhawan,  
Sansad Marg,  
New Delhi, PIN-110001.
2. The Director General,  
Govt. of India,  
Ministry of Communication,  
Department of Post, Dak Bhawan,  
Sansad Marg,  
New Delhi, PIN-110001.
3. The Deputy Director General, Vigilance,  
O/o The Director General,

Govt. of India,  
Ministry of Communication,  
Department of Post, Dak Bhawan,  
Sansad Marg,  
New Delhi, PIN-110001.

4. The Assistant Director General, Vigilance,  
Office of The Director General,  
Department of Post, Dak Bhawan,  
Sansad Marg,  
New Delhi, PIN-110001.

... Respondents

(By Advocate: Sh. H.K.Mehta)

### **ORDER**

**By Hon'ble Mr. Pradeep Kumar, Member (A)**

Heard the learned counsel for applicant and respondents.

2. The applicant is a group 'A' officer of Indian Postal Service of 1989 batch. He joined on 21.09.1989. This was his first posting as Sr. Superintendent of Post Office at Sambalpur and certain complaints were received and he was suspended w.e.f. 12.04.1993. Thereafter, a major penalty charge sheet was issued on 25.06.1993, which was received by the applicant on 17.11.1993. Before issuing the said charge sheet, no Show Cause Notice was issued and he was directed to submit representation, if any, to the Enquiry Officer itself by 31.12.1993. This representation was submitted on 30.06.1994. Thereafter, the enquiry report was finalised on 07.08.1998 whereby the charges levelled against the applicant were not proved. The findings are reproduced below:-

“6.1 Articles of Charges I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV:

6.2 Certain actions by the Charged Officer have been established.

6.3 Imputations of misconduct or misbehaviour in support of the articles of charges framed have not been established, nor proved.

6.4 Sambalpur Postal Division was the first independent charge of Shri A.K. Singh, after successful completion of Probation. All his actions have been as an outcome to achieve positive results in a system with rigorous rules and regulations, which delays quick results. A large number of decisions taken by Shri A. K. Singh have been in the interest of service.

6.5 At no point during the period of his alleged misconduct, was any oral or written performance counselling issued to Shri A. K. Singh, to make him aware of his weaknesses and drawbacks.

6.6 Shri A. K. Singh has been suffering from mental depression and domestic problems, since 1992. Mental instability may have led to violation of several government orders.”

3. Thereafter, the Department obtained CVC advice, which was issued vide letter dated 14.06.1999. Agreeing with the view of the Department, the CVC indicated that considering the merits of the case, minor penalty is in order and the same was recommended. Thereafter, the Department obtained UPSC's advice which was provided vide their letter dated 19.03.2001. UPSC advised that “ends of justice would be met if a penalty of withholding annual increment of pay for a period of 03 years is imposed on CO A.K. Singh with cumulative effect”.

4. Thus, while the Department and the CVC recommended a minor penalty, UPSC advised a major penalty. Therefore, for this difference of opinion between CVC and UPSC, the Department

referred the case to DOPT, whose advice was received on 03.10.2001 to the effect that since UPSC advice is for a major penalty as against minor penalty advised by CVC, this is not a case of disagreement and therefore it does not need to be referred to DOPT. Thereafter, the case was put up to the Competent Authority for punishment, as was recommended by UPSC (Para 3 supra) and the same was imposed vide orders dated 12/15.10.2001.

5. Feeling aggrieved, the matter was agitated in the Tribunal vide O.A. No 109/2002. It was decided on 05.02.2004 and Department was advised to reconsider the quantum of punishment within a period of 03 months. The said orders are reproduced below:

“In the result, we have thus, find that as regards proceedings so initiated and concluded, that part does not require any interference. As regards the quantum of punishment so imposed, which, to us, is shocking to the conscience, the matter is remanded back to the concerned respondent to consider afresh relating to the quantum of sentence which to us in the instant case, as detailed in Annexure-A/7, is harsh and dis-proportionate to the articles of charges so framed particularly, by looking to its nature and gravity of charge and also particularly, looking to the contents of Annexure-A/3 which be thus, accordingly, considered by the concerned respondent imposing lesser punishment than that so imposed and this exercise is to be completed within a period of three months from the date of receipt/production of a copy of this order by passing an order in the light of observations and directions so given above.”

6. In compliance, the case was referred by the Department to UPSC and UPSC reiterated their advice given earlier vide letter

dated 21.09.2004 (para 3 supra). Alongside, the Department also filed a Writ in the Hon'ble High Court of Jharkhand vide WPS No. 1123/2009 assailing the order of the Tribunal in the said O.A. – 109/2002(para 5 supra). The said Writ was decided on 20.04.2010 with the following observations:

“We considered the submissions of learned counsel for the petitioner and perused the facts of the case. The Tribunal has considered the reasons given in the punishment order as well as considered the facts of the case in detail in paragraph 9 of the impugned order and observed that major portion of the articles of charge so framed were not in any way showing dishonesty or deliberate negligence on the part of the respondent. Furthermore, only allegation against the respondent was with respect to the purchase of certain articles like, furniture, pillows, bed-sheets, kitchen utilities etc. Therefore, it was a case of not following the Rules only and there is no allegation of dishonesty or deliberate negligence. Therefore, the Tribunal has rightly interfered with the quantum of punishment and we do not find any reason to interfere while exercising power under writ jurisdiction.

Hence, this writ petition is dismissed.”

Thus, there was no change in the punishment already imposed.

7. Thereafter, the applicant represented on 23.07.2013 to grant him seniority by restoring him back to his original place of gradation with all consequential benefits and sought following reliefs. In support, following judgments of Hon'ble Supreme Court of India, were also quoted:

- I. **Union of India-Vs. – K.V. Janki Raman and others** (1991)  
4 SCC 109.

- II. **Basant Rao Raman- Vs. –Union of India and others**  
(1993) Suppl (2) SCC 324.
- III. **Nalini Kant Sinha – Vs. – State of Bihar and others** (1993)  
Suppl (4) SCC748.
- IV. **State of Andhra Pradesh – Vs. K. V. L. Narashimgharao & others** (1999) (4) SCC 181.
- V. **State of Kerala – Vs. E.K.B. Pillai** (2007) (6) SCC 83.
- VI. **State of Uttar Pradesh – Vs. – Vinod Kr. Srivastava** (200)  
(9) SCC 621.

8. Since, there was no response from the Department, the applicant filed another Writ in Hon'ble High Court of Jharkhand vide WP(S) 7424/2013, which was decided on 05/07.07.2015 with the following directions:

“After some argument, counsel for petitioner seeks permission to withdraw this writ application in order to move before Central Administrative Tribunal having territorial jurisdiction over the subject matter of the case as it appears that Department of Post, Ministry of Communication are covered under the jurisdiction of Central Administrative Tribunal constituted under Administrative Tribunal Act, 1955. Petitioner also appears to have preferred O.A. No. 109 of 2002 earlier being aggrieved by the order of punishment before Ranchi Circuit Bench of Central Administrative Tribunal, Patna.

Counsel for petitioner submits that there might be delay in moving the Central Administrative Tribunal, which may be considered sympathetically by Central Administrative Tribunal.

Be that as it may, if the petitioner moves an application before learned Central Administrative Tribunal within a period of 4 weeks, the question of delay be considered sympathetically in view of the fact that petitioner had been pursuing his writ application before this Court.

Accordingly, this writ application is dismissed as withdrawn with the aforesaid liberty.”

9. In follow up, the Instant O. A. has been filed, seeking following reliefs:

- I. To give promotion to the petitioner with all consequential benefits with retrospective effect as according to his seniority from 21.08.1989 i.e. the date of his joining as Junior Time Scale Group A officers in the Indian Postal Service (IPS) batch 1989.
- II. To give all pecuniary benefits including differences of back salary and interest.
- III. To give cost for suit, mental agony and harassment.
- IV. To give other benefits under the facts and circumstances of this case  
OR  
The Hon'ble Tribunal may be pleased to pass other suitable directions to the respondents as may be deemed fit and proper under the facts and circumstances of this case.

For one reason or the other, this O.A. was dismissed for non-prosecution on 18.09.2015. However, subsequently, this was restored after a M.A. No. 051/00101/2015 was decided on 14.01.2016.

10. The applicant had also filed another Writ Petition in Hon'ble High Court of Jharkhand vide WP(S) No. 2632/2016. It was decided on 08/21.08.2017 with the following directions:

“Despite granting time twice to the learned counsel for the Union of India, the Respondents have also not been able to apprise the Court on the instant issue. However, we are of the opinion that since the prayer of the applicant/petitioner herein in O.A. No. 051/00185/2015 have not been considered by the Learned Tribunal while disposing it of, we therefore deem it fit to remand the matter for due consideration of the O.A. No. 051/00185/2015. Needless to say, Learned Central Administrative Tribunal would endeavour to decide the original application within a reasonable time, of course after due opportunity to the parties.

Writ petition stands disposed of accordingly.”

11. The Hon'ble High Court has, therefore, directed specific orders on various reliefs sought for in instant O.A. No. 185/2015 (para 9 supra).

12. The respondents pleaded that in the instant case, a major penalty charge sheet was issued, which was duly enquired and thereafter, the opinions of CVC and UPSC were obtained. Once the Tribunal directed for review of quantum of punishment, matter was again got reviewed in consultation with UPSC where punishment was reiterated and since the entire case has gone through all these stages, the present O.A. has no merit and is required to be dismissed.

13. Matter has been heard at length. This is the case of a Group 'A' officer, who was issued a major penalty charge sheet in his very first posting whereafter the disciplinary authority as well as CVC were of the view that only minor punishment is called for. However, it was at the stage of UPSC, that a major penalty was imposed. The Tribunal had observed earlier that the quantum of punishment was disproportionate. The Hon'ble High Court had also observed that there was no dishonesty or deliberate negligence on the part of applicant. But still, major penalty was reiterated by UPSC and the department.

It is also seen that the charge sheet was issued on 25.06.1993. Thereafter, the punishment was imposed on 15.10.2001. Thus, it



had taken 08 long years to finalise the charge sheet. The punishment imposed was for withholding of annual increment for a period of 03 years with cumulative effect.

In this context, so as to appreciate the real impact of this punishment, it is necessary to recall here the extent instructions dated 14.09.1992 by DOPT on the subject as under:-

- (i) Once the charge sheet was issued on 25.06.1993 and up till the date the punishment was imposed, i.e., on 15.10.2001, all the DPCs, which may have considered the name of the applicant, would have kept the recommendations in a sealed cover. In the instant case, since the punishment was imposed for 03 years WIT w.e.f. 12/15.10.2001, it follows that for another 03 years i.e. up to 12/15.10.2004, his name would continue to be kept in the sealed cover.

This would be the case in accordance with instructions by DOPT, vide letter dated 14.09.1992. However, this DOPT letter also contains instruction to complete the exercise of finalising the charge sheet expeditiously within a period of 01 year failing which there is need to critically review the matter every six months and if delays are still apprehended, provision is kept to consider promoting the officer on ad-hoc basis subject to certain terms and conditions. This DOPT letter therefore has to be seen in totality.

The subject matter of time being taken to finalise disciplinary proceedings, has also come up and was adjudicated by the Hon'ble Supreme Court in Civil Appeal No. 958/2010 **Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr.** and judgment was passed vide their order dated 16.12.2015. This was quoted by the CVC in their Circular No. 02/01/2016 dated 18.01.2016 wherein directions were also issued to all the Ministries to complete the departmental inquiry within six months from the date of appointment of inquiry officer and when there is need for more time, in not more than a year. The relevant portion of the said Apex Court judgment were also quoted by CVC in their letter dated 18.01.2016 as under:

“29. One cannot dispute in this case that the suspension period was unduly long. We also find that the delay in completion of the departmental proceedings was not wholly attributable to the appellant but it was equally attributable to the respondents as well. Due to such unreasonable delay, the appellant naturally suffered a lot because he and his family had to survive only on suspension allowance for a long period of 9 years.

30. We are constrained to observe as to why the departmental proceeding, which involved only one charge and that too uncomplicated, have taken more than 9 years to conclude the departmental inquiry. No justification was forthcoming from the respondents side to explain the undue delay in completion of the departmental inquiry except to throw blame on the appellant's conduct which we feel, was not fully justified.

31. Time and again, this court has emphasized that it is the duty of the employer to ensure that the departmental inquiry

initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. In cases where the delinquent is placed under suspension during the pendency of such inquiry then it becomes all the more imperative for the employer to ensure that the inquiry is concluded in the shortest possible time to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.

32. As a matter of experience, we often notice that after completion of the inquiry, the issue involved therein does not come to an end because if the findings of the inquiry proceedings have gone against the delinquent employee, he invariably pursues the issue in Court to ventilate his grievance, which again consumes time for its final conclusion.

33. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or Private) must make sincere endeavour to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and nature of inquiry but not more than a year".

14. While the guiding principles to finalise proceedings remain one year, it had taken 08 years in the instant case to complete the proceedings as against the desirable time of 01 year. Thus, the intended punishment of 03 years WIT with cumulative effect, actually lead to a situation where the applicant's name would have been kept in sealed cover for a period of 11 years (08 years to finalise the enquiry and 03 years thereafter for the imposed punishment to complete). Had proceedings been completed in 01 year as indicated by DOPT and reaffirmed by Hon'ble Apex Court and by CVC,

the officer's name would have remained under sealed cover for a total period of 04 years only, (01 year for the finalisation of the proceedings and 03 years for the punishment to complete its effect).

Thus, the intended punishment for four years had increased to unintended 11 years in reality. There is no whisper anywhere by the Respondents that the applicant has caused any delay in finalisation of the enquiry.

Assuming that the major penalty charge sheet ought to have should taken about 01 year for finalisation and since the punishment imposed was for 03 years WIT with cumulative effect, it would have caused sealed covers to remain unopened for 04 years only. But, in the instant case, sealed covers would have remained unopened for a period of 11 years. It thus, follows that even if he was adjudged as fit for promotion in all these DPCs, it would still have resulted into denial of promotion for an additional 07 years. This miscarriage needs to be corrected to the extent feasible.

15. Therefore, this Tribunal is of the view that this uncalled for and unintended increase in punishment, which is actually taking effect, needs to be rectified to be in-conformity with the originally intended and imposed punishment.

16. Moreover, the officer has represented that his seniority has remained intact, as punishment imposed was only “withholding annual increment of pay for a period of 03 years with cumulative effect”.

17. In view of above, in respect of relief sought in para 9 (I & II) above, it is directed that sealed covers for all the DPCs, held during the 04 years period, i.e, 25.06.1993 to 24.06.1997, shall only remain un-opened. The sealed covers for all DPCs held on or after 25.06.1997 shall be opened forthwith, and if he was found fit in any of these DPCs, he will be promoted immediately with effect from the date of promotion of his immediate junior in such of the DPCs, duly retaining his seniority and granting him notional pay fixation from such dates. For such notional pay fixations, it shall be taken that the punishment of 03 years WIT with cumulative effect, was imposed one year after issuing charge sheet i.e. as of 25.06.1994 and its effect will be over as of 24.06.1997.

Further, in case in any of the DPCs held after 25.06.1997, his name was kept out of the zone of consideration due to the charge sheet dated 25.06.1993 or punishment order dated 12/15.10.2001, whereas his juniors were considered, review DPCs will also be conducted within next six months, and if he is found fit, further action for granting him promotion with respect

to his juniors in such original DPCs and granting him notional pay fixation from such dates, will also be taken as, directed herein above, within this period.

All due arrears will be paid along with interest till it is paid, at GPF rate for the period he actually shouldered higher responsibility in all these years and consequential benefit, if any, be also extended for subsequent periods. This entire exercise shall be completed within six months period of receipt of certified copy of these orders.

18. In respect of relief under para 9 (III), the respondents shall pay Rs. 1,00,000/- to the applicant for causing mental agony due to delay in finalising the charge sheet.

19. In respect of relief under para 9 (IV), it is noted that this case had taken 08 long years time from issue of charge sheet on 25.06.1993 till it was finalised and punishment orders were imposed on 12.10.2001. There are instructions vide DOPT order dated 14.09.1992 and CVC order dated 18.01.2016, to finalise all such cases expeditiously and if delays are still expected, the case are to be reviewed from time to time, but in any case to finalise within one year. Despite this, delays have occurred. The respondents shall put in place the requisite mechanism to ensure that model calendar specified by CVC in their letter dated 18.01.2016 is followed and to avoid such delays in future.

19. The O.A. is disposed off accordingly. Applicant shall have liberty to approach Tribunal, if some grievance still subsists. Parties shall bear their own costs.

20. MA No.051/00078/2017 has already been disposed off by order dated 13.03.2018.

Sd/-

(Pradeep Kumar)  
Member (A)

Sd/-

(A.K. Patnaik)  
Member (J)

“AS”