

**Central Administrative Tribunal
Principal Bench**

**OA No.4200/2018
MA No.1290/2019**

New Delhi, this the 28th day of May, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Gajraj Singh Nagar,
S/o Late Shri Fairam Singh Nagar,
Aged about 61 years,
Group : B
Department : Department of Posts,
Ministry of Communication
Designation : Ex-Assistant Accounts Officer
R/o House No.1273, Gali No.1,
Khajuri Khas Village,
Delhi-110090.

...Applicant

(By Advocate : Ms. Rani Chhabra)

Versus

1. Union of India,
Through Secretary,
Ministry of Communication,
Department of Posts,
P.A. Wing,
Postal Directorate, Dak Bhawan,
New Delhi-110001.
2. Senior DDG (PAF),
Postal Directorate
P.A. Wing, Dak Bhawan,
Sansad Marg, New Delhi-110001.
3. Assistant Director General,
P.A. (Admn.),
P.A. Wing, 4th Floor,
Dak Bhawan,
Sansad Marg, New Delhi-110001.
4. The General Manager,
(Finance Postal Accounts Office)

Delhi Circle,
Shamnath Marg, Delhi-110054.

...Respondents

(By Advocate : Ms. Leelawati Suman)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant was working as Assistant Accounts Officer in the Department of Posts, Ministry of Communications. He was issued a charge memo dated 28.11.2017, wherein certain allegations as to misconduct were made. This OA is filed with a prayer to quash the disciplinary proceedings, on the ground that the charge memo dated 28.11.2017 was not served upon him at all. Prayer is also made for extension of the benefit of the re-fixation of pay, leave encashment, commutation of pension and various other retiral benefits.

2. The applicant contends that he has been subjected to frequent transfers, contrary to the prescribed norms and when he did not join at a particular place, the proceedings were initiated against him, almost in a vindictive manner.

3. Respondents filed counter affidavit opposing the OA. It is stated that serious allegations were made against the applicant and other employees, in relation to 17 recurring deposits involving Rs.87,55,161/-, and the applicant has been avoiding the receipt of the charge memo. It is also stated that the applicant did not report to duty after 16.10.2017, till he attained the age of superannuation.

4. We heard Ms. Rani Chhabra, learned counsel for applicant and Ms. Leelawati Suman, learned counsel for respondents.

5. The challenge in this OA is to the very disciplinary proceedings. It is a matter of record that the memo of charge dated 28.11.2017, was issued against him. The reason on account of which the same was not served upon the applicant is not immediately relevant. Even if, the applicant had a justifiable reason in not attending the office, the mere non service of the memo does not render the proceedings void. Another angle is that a different procedure needs to be followed in respect of retired employees. In such cases, Rule 9 of the CCS (Pension) Rules, 1972 and not Rule 14 of the CCS (CCA) Rules, 1965, gets attracted.

6. The applicant, no doubt, retired from service w.e.f. 30.11.2017. However, the charge memo was issued two days earlier to that date. Rule 2(a) of Rule 9 of the Pension Rules, mandates that if a charge memo is issued under Rule 14 of CCS (CCA) Rules, while an employee was in service, the same deserves to be treated, as the one under Rule 9, after retirement. Therefore, the plea of the applicant that the charge memo cannot be sustained in law is, unacceptable.

7. We, therefore, dismiss the OA. However, the respondents shall be under obligation to release the provisional pension and to extend all the undisputed retiral benefits to the applicant, within a period of three months, from the date of receipt of a certified copy of this order.

Pending MAs, if any, stand disposed of.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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