

**Central Administrative Tribunal  
Madras Bench**

**OA/310/00951/2017**

**Dated the 25<sup>th</sup> day of June Two Thousand Nineteen**

**P R E S E N T**

**Hon'ble Mr. P.Madhavan, Member(J)**  
**&**  
**Hon'ble Mr.T.Jacob, Member(A)**

S.Jayakumar  
S/o D.Sundararaj,  
No.29, RMS Colony,  
Edamalaipattipudur,  
Tiruchirappalli,  
PIN 620 012.  
By Advocate **M/s.R.Malaichamy**

.. Applicant

**Vs.**

1. Union of India, rep by the  
Chief Postmaster General,  
Tamil Nadu Circle,  
Anna Salai, Chennai-600 002.
2. The Director of Postal Services,  
O/o The Postmaster General,  
Central Region (TN),  
Tiruchirappalli 620 001.
3. The Senior Superintendent,  
RMS "T" Division,  
Tiruchirappalli 620 001.

.. Respondents

By Advocate **Mr.M.Kishore Kumar, SPC**

**ORDER**

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“To call for the records of the 2<sup>nd</sup> respondent pertaining to his proceedings made in Memo No.STC/18-11/2016/RMS/TR dated 07.3.2017 and Rule 14 charge sheet issued by the 3<sup>rd</sup> respondent vide Memo No.B2/Rule-14/Dlgs/S.J/2016 dated 04.2.2017/01.5.2017 and set aside the same; and

To pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case.”

2. The applicant is working as MTS at Sub-Record Office (SRO), Rail Mail Service at Thiruvannamalai. He was issued with a charge memo under Rule 16 of CCS (CCA) Rules, 1965 by the 3<sup>rd</sup> respondent. The applicant submitted his explanation. But the Disciplinary Authority (DA) imposed a punishment of reduction of pay by one stage for a period of 2 years w.e.f. 01.8.16 as per order dated 28.7.16 and corrected order dated 30.8.16 (corrigendum).
3. The 2<sup>nd</sup> respondent thereupon took suo moto revision under Rule 29(1)(d) of the rules and proposed to enhance the penalty imposed by the 3<sup>rd</sup> respondent. A memo dated 19.12.16 was issued and the applicant had filed his representation to the 2<sup>nd</sup> respondent. Thereupon the 2<sup>nd</sup> respondent passed an order on 07.3.17 remitting the matter to the 3<sup>rd</sup> respondent for conducting a detailed inquiry under the provisions of Rule 14 of CCS (CCA) Rules, 1965.
4. According to the applicant, the order of remitting back to the 3<sup>rd</sup> respondent is wrong and it is an interference into the authority of DA. The 3<sup>rd</sup> respondent issued a

fresh charge memo under Rule 14 of the rules for a detailed inquiry. The action of the 2<sup>nd</sup> respondent remitting back the case to the 3<sup>rd</sup> respondent without setting aside the order is illegal. The respondents want to harass the applicant.

5. The respondents filed statement admitting the imposing of penalty under Rule 16 proceedings. According to them the 2<sup>nd</sup> respondent had remitted the case back to the DA as it felt that the penalty given is not sufficient and commensurate with the misconduct committed. This was done after giving an opportunity to the delinquent officer to explain his reasons for not enhancing punishment. After considering the representation, the revising authority, 2<sup>nd</sup> respondent had remitted back the case for conducting a further inquiry under Rule 14 of CCS (CCA) Rules. The 2<sup>nd</sup> respondent being the Appellate Authority (AA) is having authority to review the order passed by the DA.

6. We have heard both sides and perused the records and pleading from both sides. The only question to be decided is whether the Revisional Authority (RA) can remit a case to the DA under Rule 29 for conducting inquiry. If we go through Rule 29, the RA has following powers:-

- (1) It can confirm, modify or set aside the order, or
- (2) Confirm, reduce, enhance or set aside the penalty imposed by the order or impose any penalty where no penalty has been imposed.
- (3) Remit the case to the authority which made the order to or any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or

(4) Pass such other order as it may deem fit.

7. In this case, the revision was done since the authority found that the punishment given was not commensurate with the gravity of misconduct committed by the delinquent officer. A memo was issued to the applicant showing the intention for imposing greater penalty and the officer had submitted his representation. After considering the representation, the revising authority felt that a further inquiry is necessary and hence as provided under Section 29(c) of the rules, he remitted the matter to the DA to conduct a detailed inquiry under Rule 14 of CCS(CCA) Rules. On a perusal of the pleading, it can be understood that there has not taken place a detailed inquiry as contemplated under Rule 14. The penalty was imposed on the basis of the submissions to the charge memo given by the applicant. In the absence of a detailed inquiry, the AA or RA cannot enhance the penalty. It is because of that the 2<sup>nd</sup> respondent had remitted the matter to the 3<sup>rd</sup> respondent for conducting further inquiry as provided under Rule 14. If we go through Rule 16(b), it can be seen that even for a charge memo under Rule 16 a detailed inquiry as contemplated under Rule 14 can be adopted.

8. The counsel for the applicant mainly rely on the judgment of this Tribunal in ***Tamilselvan v. Union of India & Others in OA 186/15***. On a perusal of the above judgment, it can be seen that the Tribunal has held that when a case is remitted back under Rule 29(1), it will be deemed that the earlier order is set aside. It also held that after conducting a detailed inquiry, the report has to be filed before the DA and it is he who has to take a decision on the basis of report. This decision in no way will

help the applicant to show that remitting of his case back for conducting a detailed inquiry under Rule 14 has in any way prejudiced the applicant. In fact he gets all the opportunities to disprove the allegations made against him. So, we find no merit in the contentions raised against the order of remitting the case to conduct further inquiry. There is no illegality or infirmity or violation of principle of natural justice has occurred in this case.

9. Accordingly, we hereby dismiss the OA forthwith.

10. The interim order passed by this court dated 23.6.17 granting status quo will stand vacated forthwith. The DA will complete the proceedings without causing any further delay.

(T.Jacob)  
Member(A)

(P.Madhavan)  
Member(J)

25.06.2019

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