

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00403/2016

Date of Decision: This the 15th day of October 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

Shri Nazmul Hoque Laskar
S/O Late Taiyab Ali Laskar
Resident of Hailakandi Town
P.O. Ratanpur Road. Dist. – Hailakandi (Assam)
PIN – 788155.

...Applicant

By Advocates : Sri H. Rahman, Sr. Advocate, Ms. U. Das,
S. Borpatragohain & R.D. Phukan

-Versus-

1. Union of India
Represented by the Secretary, Govt. of India
Ministry of Communications, Department of Posts
India – 110001.
2. Chief post Master General,
Assam Circle (Disciplinary Authority)
Guwahati – 781021.
3. The Superintendent
Postal Stores Depot, Guwahati – 781021.
4. Member (Personnel) Govt. of India
Deptt of Post, New Delhi – 110001.

.....Respondents

By Advocate: Sri S.K. Ghosh, Addl. CGSC

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):

This O.A. has been preferred by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following main reliefs:

- 8.a) That the applicant who is serving as a ASPO (Uniform) PSD Guwahati under the Office of the Chief Post Master General, Assam Circle Guwahati – 01 and who has been rendering sincere services should be absolved from the Articles of Charge No III and Article of Charge No IV imposed upon him by the Inquiry Officer/Respondent No. – 2.
- b) That the impugned Memorandum in Memo No VIG / 1-5 / 2013 dtd 3rd June 2013 issued by the Chief Postmaster General T.Muthy / Respondent No – 2 should be declared void and illegal.
- c) That the punishment order dtd. 24.7.2015 passed by the CPMG Assam Circle, Guwahati in which the punishment of reduction to the minimum of the scale of pay of Rs 9300-34800 with grade pay of Rs 4600 for a period of 2 years with further instruction that during the period of reduction the applicant will not even earn any increment and after the said period it will have the impact of postponing the future increments of pay imposed on the applicant should be set aside and quashed.
- d) That the impugned order in No. C-16013 /09 / 2015.VP dtd. 29.1.2016 issued by the Member (personnel) Govt. of India, Ministry of Communication & IT, Deptt of Posts should be set aside and quashed.

The above relief are sought for on the following amongst other.

- i) For that the impugned order of reduction of pay passed by the applicant authority is bad in law and the same is based on an enquiry report which is perverse.

- ii) For that the Enquiry Officer in his enquiry Report (Annexure 8) held that Charge (i) & (ii) were not proved and Charge No (iii) was partially proved. Disciplinary authority while examining this enquiry report on the bases of the evidence recorded by the Enquiry Officer arrived at the findings that all the Charge against the applicant have proved without arriving any reason thereof.
- iii) The impugned order is illegal, void and bad in law. The impugned order of the Disciplinary Authority is void, illegal and violative of Article 14 and 16 of the Constitution of India.
- iv) That the punishment inflicted on the applicant is disproportionate.
- v) That the enquiry report (Annexure 8) is void, illegal and without jurisdiction as the same has been passed without following the procedure laid down by law therefore the finding arrived by the Disciplinary Authority as the Charges levelled against the applicant having being proved as a perverse.
- vi) For that the Disciplinary Authority while coming to its own conclusion that the charges levelled against the applicant having being proved did not assigned any reason as to why it came to the conclusion as to the misconduct discussing the evidence on records.
- vii) For that the Departmental Authority owes a public duty to conduct a fair departmental enquiry and the present departmental enquiry conducted against the applicant is unfair and illegal.
- viii) For that the applicant did not violate Rule 187 (1) and 187 (2) of GFR.

2. Grounds for relief as narrated by the applicant is that:-

- a) The action/inaction on the part of the respondents in not considering the case the applicants for choice place of posting after completing 10 years of service in the same station as such same is bad in law and hence liable to be set aside and quashed.
- b) That the impugned order is bad because it is being passed by overlooking the relevant facts

and materials and by taking irrelevant facts and materials into consideration.

- c) That the applicant authority failed to examine whether the disciplinary authority instituted proper departmental enquiry based on procedure laid down by law.
- d) That the impugned disciplinary proceedings is based on perverse findings and the applicant was denied a reasonable opportunity to defend himself against the impugned Enquiry Report which was violative of Natural Justice.
- e) That the impugned order of reduction of pay passed by the applicant authority is bad in law and the same is based on an enquiry report which is perverse.
- f) That the Enquiry Officer in his enquiry Report (Annexure 8) held that Charge (i) & (ii) were not proved and Charge No (iii) was partially proved. Disciplinary authority while examining this enquiry report on the bases of the evidence recorded by the Enquiry Officer arrived at the findings that all the Charge against the applicant have proved without arriving any reason thereof.
- g) The impugned order is illegal, void and bad in law. The impugned order of the Disciplinary Authority is void, illegal and violative of Article 14 and 16 of the Constitution of India.
- h) That the punishment inflicted on the applicant is disproportionate.
- i) That the enquiry report (Annexure 8) is void, illegal and without jurisdiction as the same has been passed without following the procedure laid down by law therefore the finding arrived by the Disciplinary Authority as the Charges levelled against the applicant having being proved as a perverse.
- j) That the Disciplinary Authority while coming to its own conclusion that the charges levelled against the applicant having being proved did not assigned any reason as to why it came to the conclusion as to the misconduct discussing the evidence on records.
- k) That the Disciplinary Authority denied the applicant reasonable opportunity to defend his case to prove his innocence in the departmental enquiry.

- l) That the Departmental Authority owes a public duty to conduct a fair departmental enquiry and the present departmental enquiry conducted against the applicant is unfair and illegal.
- m) That the impugned judgement is void, illegal and without jurisdiction and violate of Article 14 and 16 of the Constitution and the applicant did not violate Rule 187 (1) and 187 (2) of GFR 2005.

3. The respondent authorities have filed their written statement on 21.03.2017 wherein they have brought out among others as under:-

“Again supply order was place for 1000 packets of MPCM stickers as per specifications vide order No.SD/Stny/2010-11 dated 15.09.2011. The supplier supplied the articles in two slots dated 26.09.2011 and 19.10.2011 specifying 1800 stickers sheets in his challans. Bill for Rs.10,62,000/- produced by M/s Mohit Trade & Agencies were sanctioned without verifying the contents of the consignment as required under Rule 187(1) and 187(2) of the General Financial Rule, 2005.

(ii) The work order for supply of 1000 packets of MPCM stickers as per specifications was placed on 02.02.2011 to M/s Mohit Trade & Agencies. Accordingly, the supplier supplied the contents even after the expiry of the time limit specified in the NIT which was received in PSD on 26.04.2011 and 02.05.2011. Subsequently the cheque costing of 1000 packets already drawn for Rs.10,62,000/- was released on 02.05.2011 without any verification of contents and going through the NIT and thus the applicant failed to follow the terms and conditions of the NIT.”

4. The case was last heard on 20.09.2019. Both the learned counsel were allowed to file their written arguments within 10 days, if so desired. The learned counsel for the applicant has filed written argument on 30.09.2019. But the respondents have not filed any written argument.

5. The applicant joined as a Postal Assistant at Silchar on 23.01.1983. While serving in the office of the ASPO's (Uniform), Postal

Store Depot, Guwahati, the Head of Branch, CBI, ACB, Guwahati filed an FIR dated 08.05.2012 alleging therein that credible information exists that in the year 2009-2010 & 2010-2011, the proprietor of Mohit Trade Agencies, Athgaon, Guwahati & Sri Ananta Kr. Das, Manager, Postal Store Depot, Bamunimaidam Guwahati, Sri Bishnu Ram Dutta, Postal Assistant, Postal Store Depot, Bamunimaidam, Guwahati, Sri Subhas Lakhar, the then Postal Assistant, Postal Store Depot, Bamunimaidam, Guwahati, Sri Nazmul Haque Laskar, the then Superintendent, Postal Store Depot, Bamunimaidam Guwahati and some others had entered into a criminal conspiracy and defrauded the Postal Department for an amount of Rs. 26,69,007/- at the time of procuring MPCM (Multi Purpose Counter Machine) sticker. In the criminal case, the applicant along with others has been finally discharged/not acquitted.

6. The respondent authorities vide Memorandum No. VIG/1-5/2013 dated 03.06.2013, containing 4 Article of Charges, the enquiry was completed by the enquiry authority with the findings as under:-

Charge of Article No. I	Proved
Charge of Article No. II	Proved
Charge of Article No. III	Partially Proved
Charge of Article No. IV	Proved.

The copy of the enquiry was made available to the applicant with the disagreement note of the Disciplinary Authority finding Articles I, II

& IV 'Proved' and Article III 'Partially Proved'. His representation dated 05.03.2015 against the enquiry report and disagreement note was disposed of by the Disciplinary Authority vide order No. Vig/1-5/2013 dated 24.07.2015 with the imposition of penalty of reduction to minimum of the scale of pay of Rs. 9300-34800/- with grade pay of Rs. 4600/- for a period of 2 years with further instructions that during the period of reduction he will not earn any increment and after the said period it will have impact of postponing the future increments.

7. The applicant submitted his appeal against the penalty imposed. The appeal of the applicant against the penalty imposed was disposed of by the Appellate Authority vide his order No. C-16013/09/2015-VP dated 29.09.2016 with details speaking order.

8. We have gone through the submissions, arguments and records submitted by both the parties. It is observed from the procedure adopted by the respondent authorities that they have meticulously followed the laid down procedure at every stage. All the decisions are found to be taken by them particularly the Disciplinary Authority and the Appellate Authority with proper reasoning and as per the laid down procedure. As such we do not find any deviation which could have been particularly adverse to the applicant. Accordingly, we do not find any reason to interfere with the order of punishment imposed by the Disciplinary Authority vide order No. Vig/1-5/2013 dated 24.07.2015 and affirmed by the

Appellate Authority vide order No. C-16013/09/2015-VP dated 29.01.2016. The O.A. is found to be devoid of merit and is hereby dismissed.

9. However, the learned counsel for the applicant in his written argument dated 30.09.2019 has brought out that the applicant has expired on 20.08.2018. Since then, the family of the applicant has not been paid the benefits like pension, Provident Fund and other benefits by the department.

10. We have taken note of this. Since the penalty imposed by the respondent authorities has nothing to do with the terminal benefits of the applicant, we do not see why this should be withheld or delayed on account of pendency of this O.A. The respondent authorities are hereby directed to release all the admissible terminal benefits of the applicant to the legal heir within a period of three months from the date of receipt copy of this order.

11. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)