

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.458 of 2012

Date of Order :06.06.2019.

Between :

M.Nageswara Rao, s/o M.Krishna,
Aged about 53 yrs, Occ:Inspector of Post
Offices (Compulsory Retirement),
O/o Superintendent of Post Offices, Guduru,
r/o H.No.12-114, Gandhinagar, Nuzivudu,
Krishna Dist-521 201.

...Applicant

And

1. Union of India, rep., by the
Secretary & Director General of Posts,
M/o Communications, Dept. Of Posts,
Dak Bhavan, New Delhi.

2. The Chief Post Master General,
A.P.Circle, Abids, Hyderabad.

3. Post Mastr General, Vijayawada Division,
Vijayawada.

4. The Director of Post Offices,
Vijayawada Division, Vijayawada.

5. The Superintendent of Post Offices,
Guduru Division, Guduru.

... Respondents

Counsel for the Applicant ... Mr.K.Phani Raju,
Counsel for the Respondents ...Mr.A.Surender Reddy, Addl.CGSC

CORAM:

**THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)**

ORAL ORDER

(As per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

This is an OA of the year 2012. It is one of the oldest cases and was specially listed for hearing. A request was made on behalf of the learned counsel for the Applicant for an adjournment. Since this OA is specially listed by clearly mentioning that no adjournment will be granted, we have perused the record and proceeded to decide this OA, as provided for under Rule 15 of the CAT (Procedure) Rules, 1987.

2. The applicant was working as Inspector of Posts, Udayagiri Sub Division. Disciplinary proceedings were initiated against him by issuing a charge memo dated 24.05.2005. The charges were held proved against the applicant by the Inquiry Officer. Taking the inquiry report into consideration, the Disciplinary Authority passed an order dated 20.02.2007, directing removal of the applicant from service. Aggrieved by that, the applicant preferred an appeal dated 29.03.2007. The Appellate Authority, vide its orders dated 4.6.2007, set aside the order of punishment and remitted back the case to the Disciplinary Authority for conducting a denovo inquiry from the stage of issuing the charge sheet afresh. Accordingly, the applicant was reinstated into service w.e.f. 05.06.2007.

3. A fresh charge sheet was issued on 18.09.2007 and as many as 5 articles of charge were mentioned. The applicant submitted his explanation denying the charges. Thereupon, a departmental inquiry was conducted and the Inquiry Officer submitted report holding that the charges are proved. Taking the same into consideration, the Disciplinary Authority passed an order dated 23.07.2009 imposing the punishment of compulsory retirement from service. Aggrieved by that, the applicant preferred an appeal dated 4.9.2009 before the Appellate Authority and the same was rejected through an order dated 04.10.2011. This OA is filed challenging the order of compulsory retirement dated 23.07.2009, as confirmed by the Appellate Authority, vide order dated 04.10.2011.

4. The applicant contends that the inquiry was concluded in a pre-determined manner and adequate opportunity was not given to him. It is also stated that various allegations made against him are not true and the findings were recorded against him, without basis.

5. The respondents filed a reply statement opposing the OA. It is stated that the allegations made against the applicant are very serious in nature and that the inquiry was conducted strictly in accordance with law. It is also stated that the very fact that the Appellate Authority has interfered with the order of punishment on an earlier occasion and declined to do so later shows fairness and objectivity exhibited towards the applicant.

6. We perused the record of this OA and heard Mr.A.Surender Reddy, learned standing counsel appearing for the Respondents.
7. Initially, the articles of charge framed against the applicant, vide charge memo dated 24.05.2005 read as under:

“Article-I

Sri M.Nageswara Rao, while working as Inspector Posts, Udayagiri Sub Division, Udayagiri, has alleged to have demanded and accepted an amount of Rs.4,000/- (Rs.Four thousand only) from Sri Sk.Khasim Saheb, GDS MC-MD, Chintaladevi BO a/w Kondapuram SO on 14.05.2004 as bribe, for appointing the latter Sri Sk.Khasim Saheb as Group-D at Vinjamoor SO on temporary basis and after allegedly receiving the illegal gratification of Rs.4,000/-, Sri M.Nageswara Rao given arrangement in Group-D cadre to Sri Sk.Khasim Saheb. Subsequently, the Inspector Posts replaced the said Sri Sk.Khasim Saheb on 11.11.2004 from Group-D post and posted as GDS MC/MD, Chandrapadia BO a/w Vinjamuru SO.

It is, therefore, alleged that Sri M.Nageswara Rao acted in a manner of unbecoming of a Government servant and failed to maintain integrity and devotion to duty as required of him under Rule (3) (1) (i), (ii) and (iii) of CCS (Conduct Rules, 1964.

Article-II

The said Sri M.Nageswara Rao, Inspector Posts, Udayagiri Sub Division, Udayagiri, has alleged to have demanded an amount of Rs.10,000/- (Rs.ten thousand only) , from Sri Challa Subba Rathnam, GDS MD of Duthaiur SO on 30.12.2004 to appoint Sri Challa Subba Rathnam as Postman at Udayagiri SO on temporary basis and Sri M.Nageswara Rao had not offered the officiating arrangement though the GDS MD, Duthalur is senior in Udayagiri Sub-Division, due to non-compliance of his alleged demand of illegal gratification.

It is, therefore, alleged that Sri M.Nageswara Rao acted in a manner of unbecoming of a Government servant and failed to maintain absolute integrity and devotion to duty as required of him under Rule (3) (1) (i), (ii) and (iii) of CCS (Conduct Rules, 1964.”

8. The charge memo shows that the applicant faced serious allegations, including those of corruption. The charge memo was issued on 24.05.2005 and that resulted in imposition of punishment of removal from service. The appeal preferred by the applicant was allowed and the matter was remitted back to the Disciplinary Authority with a direction to issue a fresh charge memorandum. Accordingly, a fresh charge memo dated 18.09.2007 was issued, wherein the following articles of charge were framed:

“Article-I

Sri M.Nageswara Rao, while working as Inspector Posts, Udayagiri Sub Division, Udayagiri had allowed Sri Challa Subbaratnam, GDS MD, Duthalur SO to work as Group ‘D’, Vinjamoor SO from 31.10.03 to 14.05.04 and as Postman-I, Udayagiri SO in continuation from 15.5.04 to 16.12.04 i.e., for a period exceeding 180 days in a year, though the GDS who remain absent from the post beyond 180 days in a year will cease to be the GD Sevak.

It is, therefore, alleged that the said Sri M.Nageswara Rao failed to observe the provisions of DGs instructions No.2 below Rule -7 of GDS (Conduct & Employment) Rules, 2001 published in the book “Swamy’s Compilation of Service Rules for Postal Gramin Dak Sevak” (Edition 2004) (DG P & T, General Circular No.23, dated 24th February, 1970 and Letters No.43/63/69-Pen. Dated 27.05.1970; No.5-5/72-ED Cell dated the 18.08. 1973; DG Posts letter No.12-107/88/EDC & Trg. Dated 12.09.88; and No.17-338/89-ED Trg. Dated 14.02.91) and thereby failed to maintain devotion to duty as required of him under Rule (3) (1) (ii) of CCS (Conduct Rules, 1964.

Article-II

The said Sri M.Nageswara Rao, while working as Inspector Posts, Udayagiri Sub Division, Udayagiri appointed Sri Sk.Khasim Saheb, GDS MC-MD, Chintaladevi BO a/w Kondapuram SO as Group-D, Vinjamoor SO in an officiating capacity from 14.05.04 to 10.11.04, without having requisite educational qualification prescribed in the rules for recruitment to the cadre of Group-D.

It is, therefore, alleged that the said Sri M.Nageswara Rao failed to follow the instructions contained in D.G.Posts Lr.No.37-15/2001-SPB.1, dated 30.01.02 (communicated through PMG, Vijayawada Lr.No.ST-31/Group-D/Rlgs/11, dated 22.02.2002) in connection with selection of Group-D and Directorate Lr.No.10-7/2001-PE.II, dated 15.03.04 read with Directorate Lr.No.17-115/2001-GDS dated 21.10.2002 and thereby failed to maintain devotion to duty as required of him under Rule (3) (1) (ii) of CCS (Conduct Rules, 1964.

Article-III

The said Sri M.Nageswara Rao, while working as Inspector Posts, Udayagiri Sub Division, Udayagiri appointed Sri Sk.Khasim Saheb, GDS MC-MD, Chintaladevi BO a/w Kondapuram SO as GDs MC-MD, Chandrapadia BO a/w Vinjamoor SO, on 11.11.04 irregularly, though there was no transfer liability to the GDS and the said Sri Sk.Khasim Saheb was not having the requisite educational qualification of VIII standard to work as GDS MC-MD.

It is, therefore, alleged that the said Sri M.Nageswara Rao failed to follow the instructions contained in Directorate Lr.No.19-10/2004-GDS dated 01.09.04 and DG's instructions No.22 in the Section-IV (Method of Recruitment) published in the book "Swamy's compilation of Service Rules for Postal Gramin Dak Sevak" (Edition 2004) (PMG, Madras Lr.No.STC/13-413/84, dated 03.01.85 and DG P&T Lr.No.43-27/85-pen dated 06.05.85, in reply thereto) and also Director General, Posts Lr.Nof.17-366-91/ED & Trg dated 12.03.93 (communicated through PMG, Vijayawada, Lr.No.ST/30-EDA/Rlgs dated 18.03.93) and thereby failed to maintain devotion to duty as required of him under Rule (3) (1) (ii) of CCS (Conduct Rules, 1964.

Article-IV

The said Sri M.Nageswara Rao, while working as Inspector Posts, Udayagiri Sub Division, Udayagiri, was alleged to have demanded and accepted Rs.4,000/- from Sri Sk.Khasim Saheb, GDS MC-MD, Chintaladevi BO a/w Kondapuram SO on 14.05.2004 as bribe, for appointing the latter Sri Sk.Khasim Saheb as Group-D at Vinjamoor SO on temporary basis and after allegedly receiving the illegal gratification of Rs.4,000/-, Sri M.Nageswara Rao given officiating arrangement in Group-D cadre to Sri Sk.Khasim Saheb. Subsequently, the Inspector Posts replaced the said Sri Sk.Khasim Saheb on 11.11.04 from Group-D post and appointed Sri Syed Khaja Rasool, GDS MC/MD, Chandrapadia BO, a/w Vinjamoor SO, though the said Sri Syed Khaja Rasool not fulfilled the condition for appointment as Group-D even in officiating capacity.

It is, therefore, alleged that the said Sri M.Nageswara Rao failed to follow the instructions contained in D.G.Posts Lr.No.37-15/2001-SPB.1, dated 30.01.02 (communicated through PMG, Vijayawada Lr.No.ST-31/Group-D/Rlgs/11, dated 22.02.2002) in connection with selection of Group-D and Directorate Lr.No.10-7/2001-PE.II, dated 15.03.04 read with Directorate Lr.No.17-115/2001-GDS dated 21.10.2002, and also Dept. Of Posts, GDS (Conduct & Employment) Rules, 2001, and thereby failed to maintain absolute integrity and devotion to duty and acted in a manner of unbecoming of a Government servant as required of him under Rule (3) (1) (i), (ii) and (iii) of CCS (Conduct Rules, 1964.

Article-V

The said Sri M.Nageswara Rao, while working as Inspector Posts, Udayagiri Sub Division, Udayagiri, was alleged to have demanded an amount of Rs.10,000/- (Rs. Ten thousand only), from Sri Challa Subba Rathnam, GDS MD of Duthaiur SO on 30.12.2004 to appoint Sri Challa Subba Rathnam as Postman at Udayagiri SO on temporary basis and Sri M.Nageswara Rao had not offered the officiating arrangement though the GDS MD, Duthalur is senior in Udayagiri Sub-Division, due to non-compliance of his alleged demand of illegal gratification.

It is, therefore, alleged that the said Sri M.Nageswara Rao acted in a manner of unbecoming of a Government servant and failed to maintain absolute integrity and devotion to duty as required of him under Rule (3) (1) (i), (ii) and (iii) of CCS (Conduct Rules, 1964.”

9. A perusal of the articles of charge discloses the gravity of the matter.

The applicant has resorted to gross misuse of power in the context of appointing or maintaining the staff in Group-D level. The indiscipline and inefficiency that can be culled out from the same, is not difficult to imagine.

The Inquiry Officer found the charges as proved. The Disciplinary Authority took the same into account and imposed the punishment of compulsory

retirement from service on the applicant. Except stating that he was not given an opportunity of hearing during the course of inquiry, the applicant is not able to point out any specific violation of the rules. It is fairly settled that the Tribunal cannot act as an Appellate Authority in the disciplinary proceedings, once the inquiry was held in accordance with the rules and the findings are recorded on the basis of the evidence. The gravity of punishment of compulsory retirement compared to that of removal from service, imposed against the applicant is relatively less. The reason is that he is enabled to draw the pension and other retirement benefits. The only result of the present disciplinary proceedings is that the length of his service is reduced to certain extent, even while protecting him financially.

10. We do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

Dated: this the 06th day of June, 2019
Dictated in the Open Court

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