

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. M.A. 350/00176/2016
O.A. 350/00519/2015

Date of order: 20.6.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

PRANAB KANTI BORAL

VS.

UNION OF INDIA & ORS. (Posts)

For the Applicant : Mr. P.K. Munsil, Counsel

For the Respondents : Mr. P. Pramanick, Counsel

ORDER (Oral)

Justice Shri Vishnu Chandra Gupta, Judicial Member:

Heard the Ld. Counsel for the applicant and Ld. Counsel for the respondents and perused the records.

2. The applicant, who is working as Sub-Post Master, R.R. Sarani Post Office, was asked to submit his representation against a show-cause notice dated 16.9.2014 adopting the procedure of minor penalty under Rule 16 of CCS (CCA) Rules. The reply was submitted by the applicant which is contained in the order dated 3.3.2015 by which the following penalty has been imposed:-

ORDER

1. Kirity Gupta, Senior Superintendent of Post Offices, East Kolkata Division-700014 and the Disciplinary Authority in exercising of power under Rule 12(2) of CCS (CCA) Rules, 1965 do hereby order for recovery of an amount of Rs. 32582/- (Thirty two thousand five hundred eighty two) only in 4 (four) instalments @ Rs. 10000/- (ten thousand) per month for first three months and in the last instalment of Rs. 2582/- (Two thousand five hundred eighty two) from the pay of Sri Pranab Kanti Baral, SPM, Circus Avenue from the pay of March, 2015."

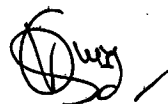
3. Aggrieved by the order the present O.A. has been filed. Reply has been filed. Reply has been filed by the department alleging therein that the punishment

was appropriate as a loss has been sustained by the department is sought to be recovered from the wrong-doers. The reply submitted by the applicant was opposed by the applicant. The notice which was issued to submit the report in 2011 was served upon the applicant, hence there shall be no illegality in the orders. Rejoinder also has been filed against the reply wherein the applicant submits that he is suffering from severe orthopaedic disorder and he is less than one year to retire. He submitted an application on 2.4.2016 seeking voluntary retirement which was rejected on 23.5.2016. He again reiterated that he has not received any memo dated 3.10.2011. The NSC was issued by Sri Chandra Sekhar Mondal which were said to be irregular. It was also alleged that one Dipak Kumar Sarkar was also penalised. However, it has been orally argued by the Counsel for the respondents that initiation of disciplinary proceeding against Dipak Kumar Sarkar was initiated after retirement but nothing has been brought on record.

4. The charge against the applicant is that he has not submitted report in time against a report card asked from him by letter dated 3.10.2011 in respect of issue of irregular 16 NSCs of denomination of Rs. 5008/- by Shri Chandra Sekhar Mondal, Savings Bank Postal Assistant. The applicant did not submit the report as desired and in the meantime Chandra Sekhar Mondal retired on 30.6.2012. The report was submitted by the applicant on 9.7.2012.

5. The main contention of the applicant is that he never received such letter dated 3.10.2011. The penalty was imposed after refuting the allegation that the applicant did not receive the letter dated 3.10.2011 as observed in the order of punishment that the letter was dispatched on 11.10.2011 and the same was delivered to the applicant on the same day.

6. It was also submitted by Ld. Counsel for the applicant that recovery ought not to have been made from the applicant as by his act loss has not been caused



to the Department. It is not the case of the Department that the amount under irregular NSC was made to a wrong person. Hence, in our view there shall be no loss occasioned to the department. It is also pertinent to mention here that these NSCs were issued in 2006 by Chandra Sekhar Mondal and the department had ample time, if so desired, to punish him by way of initiating departmental proceeding during his service tenure.

7. Having considered all the facts and circumstances of the case, we are of the view that the punishment imposed by the disciplinary authority is disproportionate to the alleged act of the applicant and penalty of recovery is hereby set aside.

8. In view of the above, we find it appropriate if a 'censure' entry is recorded in service book so far as the applicant is concerned.

9. The M.A. is dismissed in view of the order passed by this Tribunal in the present O.A. No direction could be issued by this Tribunal to respondent to accept the voluntary retirement of applicant. However, the applicant, if so desires, may move a fresh application before the authority seeking voluntary retirement and the competent authority shall pass an appropriate order in accordance with law.

10. The O.A. is accordingly disposed of. There shall be no order as to costs.

(Jaya Das Gupta)
MEMBER(A)

(Vishnu Chandra Gupta)
MEMBER(J)

SP