

**Central Administrative Tribunal
Madras Bench**

OA/310/00606/2014

Dated the 31st day of October Two Thousand Nineteen

P R E S E N T

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

M.Philomine Raj Selestine,
Postal Assistant,
Nagal Nagar SO,
Dindigul 624 003.
By Advocate **M/s.S.Arun**

.. Applicant

Vs.

1. Union of India, rep. by
Director of Postal Services,
Southern Region,
Tamil Nadu Circle,
Madurai 625 002.
2. The Superintendent of Post Offices,
Dindigul Division,
Dindigul 624 001.

.. Respondents

By Advocate **Mr.K.Ramasamy**

ORDER

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

The above OA is filed seeking the following relief:-

“....to set aside Memo No.F1/09/08-09 dated 11.12.2012 & Memo No.VIG/15-17/13-14 dated 31.12.2013 passed by the 2nd and 1st respondents respectively and pass such other orders as are necessary to meet the ends of justice.”

2. The facts of the case is as follows:-

The applicant is working as Postal Assistant in Nagal Nagar SO in Dindigul Division. According to him, the respondents in this case has issued a charge memo dated 27.8.2012 under Rule 16 of CCS (CCA) Rules, 1965 which is produced as Annexure A1. The applicant had immediately submitted Annexure A2 representation against the charge memo on 03.7.12 denying the charges alleged against him and requesting the 2nd respondent to exonerate him from the charges and also requesting to conduct an oral enquiry as contemplated under Rule 16 (1-A) of CCS (CCA) Rules, 1965. According to the applicant, the 2nd respondent, after receiving the representation has dropped the disciplinary proceedings initiated against the applicant as per Annexure A3 Office Memo dated 24.8.2012. Thereafter, on 27.8.12 the respondents had issued a fresh charge memo on the same facts under Rule 16 of CCS (CCA) Rules, 1965 which is produced as Annexure A4. According to the applicant, the main allegation against him was that he had sanctioned additional credits over the initial authorised credits to Vendasandur SO on demand by the Sub Postmaster, Vendasandur SO without proper verification. Thereby he has failed to follow the

procedures prescribed in Rule 10, 31, 58 and 59 of Postal Manual Volume VI Part III thereby failed to maintain devotion to duty as required in Rule 3 (1) Sub Rule (ii) of CCS (Conduct) Rules, 1964. He immediately filed a representation on 24.9.12 and the 2nd respondent, without considering his representation, by Annexure A6 Proceedings dated 11.12.12 ordered to withhold next one increment falling to the applicant for a period of 2 years without cumulative effect from 01.7.13. He was drawing pay in the Pay Band of Rs.9300-34800 with Grade Pay of Rs.4200/-. The copy of the order is produced as Annexure A6. The applicant preferred statutory appeal to the 1st respondent on 26.4.13 which is produced as Annexure A7. But the 1st respondent rejected the appeal on technical ground stating that the appeal time is over. The copy of the order dated 31.12.2013 is produced as Annexure A8. According to the applicant, the 2nd charge memo issued on 27.8.12 is against the law and without assigning any reasons. It is against the letter of D.G., P&T's letter No.114/324/78-Disc.II dated 05.7.79. It is clarified under the above letter that once the proceedings initiated under Rule 14 or Rule 16 of CCS (CCA) Rules, 1965, are dropped, the Disciplinary Authorities would be debarred from initiating fresh proceedings against the delinquent officers unless the reason for cancellation of the original charge memo or for dropping the proceedings are appropriately explained. The 2nd respondent, while dropping the charge memo dated 15.6.12 did not disclose any reason for doing so against the instructions contained in the D.G., P&T's letter. According to the applicant, he is not liable for any additional credits given to Vendasandur SO since the APM in-charge of Sub-accounts Branch of Dindigul HO is

the appropriate authority to verify the same. So, the applicant challenges the 2nd charge memo dated 27.8.12 as illegal. The second charge memo issued after dropping the earlier charge memo dated 15.6.12 is against law. It is also contended that the applicant is not liable for any punishment for the additional credit granted to the Vendasandur SO and the action of the 2nd respondent imposing withholding of the increments is arbitrary and cannot be sustained in the eye of law.

3. The respondents filed a detailed reply. According to the respondents, a fraud in RD accounts of Vendasandur SO was committed by the Sub-Postmaster and other staff members and an amount of Rs.1,44,27,844/- was detected on 24.11.08. According to the respondents, the applicant in this case had granted additional credit without verifying the details of liabilities of Vendasandur SO. So, he is responsible for not having devotion to duty. Enquiry was conducted by the department about the said fraud and on the basis of the same, the applicant was issued a charge memo under Rule 16 of CCS (CCA) Rules. According to the respondents, the applicant has submitted a representation dated 24.9.12 against the charge memo issued to him. According to them, the wilful negligence of the applicant to adhere to Rules and procedures had caused a delay in detection of fraud. As per the charge dropping memo dated 15.6.12, it was clearly informed that it was dropped without prejudice to further action which may be considered in the circumstances of the case. The respondents are entitled to issue a fresh charge memo on the allegation.

4. Now, **the point for consideration in this case is whether the respondents are entitled to issue a fresh charge memo on the same fact when the earlier**

charge memo was dropped without specifying the reasons for the same. The main contention of the counsel for the applicant is that as per the letter of D.G., P&T dated 05.7.79, once the proceedings initiated under Rule 14 or Rule 16 of CCS (CCA) Rules, 1965, are dropped, the Disciplinary Authorities would be debarred from initiating fresh proceedings against the delinquent officers unless the reason for cancellation of the original charge sheet or for dropping the proceedings are appropriately explained. Counsel for the applicant mainly relies on the decision of the Principal Bench in *Laxman Prasad v. Union of India in OA 2561/2009 reported in CDJ 2010 CAT New Delhi 012*. According to the counsel for the applicant, the law is clearly laid down in the above referred decision and the applicant is entitled to get the proceedings quashed.

5. On the other hand, counsel for the respondents would submit that a fraud has been detected in Vendasandur SO and it was found that the above fraud was committed due to the negligence of the applicant in granting additional credit to the Vendasandur SO without verification. The applicant has neglected his duties and is liable under Rule 16 of CCS (CCA) Rules for lack of devotion. Accordingly, the respondents have initiated disciplinary proceedings under Rule 16 of CCS (CCA) Rules to withhold of one increment and passed the order against the applicant. According to him, there was some clerical error in the earlier charge memo and it was dropped with a specific averment that the respondents are entitled to issue a fresh charge memo if necessary. So, there is no prejudice caused to the applicant in this case.

6. We have anxiously perused the pleadings and heard both sides. On a perusal of

the record, it seems that the applicant was issued with Annexure A1 charge memo dated 15.6.12 for lack of devotion to duty under Rule 16 of CCS (CCA) Rules. Thereupon, the applicant has given representation against the proceedings and on 24.8.12 the respondents had withdrawn the charge memo issued against the applicant and stated that the said dropping of charge memo was without prejudice to further action which may be considered in the circumstances of the case. The very same matter was considered by the Principal Bench in *Laxman Prasad v. Union of India in OA 2561/2009*. The letter of D.G., P&T dated 05.7.79 is extracted in para 7 of the OA. On going through the above decision of the Principal Bench, it can be seen that if the respondents want to drop the charge memo for some reason, the dropping of the said charge memo should clearly show the reason for such dropping and whether they are intending to issue a fresh charge memo in it. They are also expected to mention the same in the subsequent charge memo also. In this case there is absolutely no mention about the reasons for dropping of charge memo in Annexure A3. It is not a speaking order and it contains only that “without prejudice to further action which may be considered in the circumstances of the case.” There is no specific averment in the reasons for withdrawal of the charge memo. Immediately thereafter, the respondents had issued another charge memo on the very same set of facts without giving any other reasons for initiating the proceedings. The matter is squarely covered by the decision of the co-ordinate Bench of this Tribunal which is reported in CDJ 2010 CAT New Delhi 012. The very same question was again considered by the Hon'ble High Court of Karnataka in ***WP 40899/2002 (S-CAT) Senior***

Superintendent of Post Offices & Others v. V.B.Ravindranathan reported in CDJ 2003 Kar HC 066. So, we are of the view that the respondents had erred in dropping the charge memo without mentioning the reason for the same and issuing another charge memo without showing the reasons for issuing the same thereafter. This has vitiated the subsequent charge memo in this case. Issuing of second charge memo is against the spirit of D.G., P&T letter dated 05.7.79. Hence, we hereby quash the Memo No.F1/09/08-09 dated 11.12.2012 & Memo No.VIG/15-17/13-14 dated 31.12.2013 passed by the 2nd and 1st respondents respectively.

7. The OA is allowed accordingly. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

31.10.2019

/G/

Annexures referred to by the applicant in OA No.310/00606/2014:

Annexure A1: Charge Memo issued by the 2nd respondent dt. 15.6.12.

Annexure A2: Applicant's representation dt. 03.7.12.

Annexure A3: Memo No.F1/9/08-09 issued by the 2nd respondent dt. 24.8.12.

Annexure A4: Charge Memo issued by the 2nd respondent dt. 27.8.12.

Annexure A5: Applicant's representation dt. 24.9.12.

Annexure A6: Impugned order of increment cut passed by the 2nd respondent dt. 11.12.12.

Annexure A7: Applicant's statutory appeal dt. 26.4.13.

Annexure A8: Impugned order of 1st respondent dt. 31.12.13.