

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

Original Application No.20/970/2019

Date of Order: 01.11.2019

Between:

A. Sankar, S/o. A. Hussainaiah,
Aged about 63 years, Retired Postal Assistant in
Kurnool Postal Division, Kurnool and now
Resident of H. No. 15/129A, Kadakapur Street,
Kurnool – 518001, Andhra Pradesh.

... Applicant

And

1. The Superintendent of Post Offices,
Kurnool Division, at Kurnool.
2. The Director of Postal Services,
O/o.The Post Master General,
Kurnool Region, Kurnool.
3. The Post Master General,
Kurnool Region, Kurnool.
4. The Chief Post Master General,
A.P. Circle, Vijayawada.
5. The Union of India,
Rep. by its Secretary to the Ministry of
Communication & IT,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi.

... Respondents

Counsel for the Applicant ... Mr. K. Venkateswara Rao

Counsel for the Respondents ... Mr. B. Siva Sankar, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA has been filed against the imposition of penalty of cut of 25% of monthly pension for a period of five years and further, withholding of 50% of Gratuity on permanent basis.

3. Brief facts of the case are that the applicant was initially appointed as Postal Assistant on 13.02.1982 and later, promoted under Time Bound One Promotion (TBOP) Scheme on 13.02.1988. While working in the respondents organization, applicant was issued a charge memo dt. 14.08.2014 with three Articles of Charge. Applicant denied all the charges. An inquiry was conducted pursuant to the charge memo and the Inquiry Officer held all the charges as proved. Applicant retired on superannuation on 30.06.2015. Consequently, disciplinary proceedings were continued under Rule 9 of CCS (Pension) Rules, 1972 and the penalty was imposed by the Hon'ble President of India vide letter dt. 27.11.2017 imposing penalty of 25% cut in monthly pension for a period of five years and further, 50% of Gratuity admissible to the applicant should be withheld on permanent basis. Applicant submitted a review petition on 13.01.2018 for reviewing the penalty. Till date, the review petition has not been disposed.

4. Contentions of the applicant are that he met with head injury and lost memory and this resulted in the applicant not being able to defend his case during the inquiry. Unfortunately, this aspect was not considered while imposing the penalty vide order dt. 27.11.2017,

resulting in great injustice. Further, during the inquiry, his statements recorded during the preliminary inquiry were not read over, but the statements made by the state witnesses were read over to them. The statements made by him during the preliminary inquiry were not part of the record of the formal Rule 14 inquiry. Hence, they should not be used against the applicant unless they are read over and admitted as required under the instructions No. 29 of Rule 14 of CCS (CCA) Rules, 1965.

5. Heard both the counsel and perused the pleadings.

6(i) The applicant while working as Postal Assistant in the respondents organization was proceeded under Rule 14 of the CCS (CCA) Rules, 1965 for charging certain amounts under NREGS Savings Bank Account without any pay orders from the MPDO. The Inquiry Officer has held the charges proved and thereupon, due to retirement of the applicant, disciplinary proceedings were conducted under Rule 9 of CCS (Pension) Rules and penalty of 25% cut in monthly pension for a period of 5 years and withholding of 50% Gratuity on permanent basis, was imposed. Applicant has preferred a review petition to the Hon'ble President on 13.01.2018. Till date, the review petition has not been disposed.

(ii) Learned counsel for the applicant submitted that the review petition may have to be disposed of at the earliest since the applicant has lost memory due to an accident and despite such unfortunate development, he has been penalized with a harsh penalty in an unjustified manner. Therefore, it is necessary and expedient to dispose of review petition as earlier as possible. Learned counsel for the respondents

submitted that reply statement would be submitted in order to appreciate the evidence submitted and thereafter, a decision can be taken in the OA.

However, submission of the learned counsel for the applicant is fair and genuine since if the review petition were to be favourably considered, then, there can be end to the litigation. Besides, it would be proper to allow the applicant to exhaust alternative channel of remedy of review petition and thereafter, if the issue is agitated before the Tribunal, then it can be adjudicated. Hence, as requested by the learned counsel for the applicant, respondents are directed to dispose of the review petition of the applicant, within a period of eight weeks on receipt of this order by issuing a speaking and well reasoned order. In case the applicant is aggrieved even after the disposal of the review petition, liberty is granted to approach the Tribunal for further adjudication, if required.

With the above directions, OA is disposed, at the admission stage itself, with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 1st day of November, 2019

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