

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1837/2015
 (THE UNION OF INDIA & OTHERS **VERSUS** BALGOPAL DADAJI KUREKAR)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri Rohit Deo, A.S.G.I. for the petitioners.

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.
DATE : AUGUST 28, 2015.

By this petition, the petitioners impugn the order of the Central Administrative Tribunal, Nagpur dated 14.03.2014 partly allowing an original application filed by the respondent and directing the petitioners to consider imposing a lesser punishment than the punishment of removal from service, within six weeks from the date of the communication of the order. By the said impugned order, the petitioners were directed to reinstate the respondent in service without back wages and consider imposing a lesser punishment on the respondent.

The respondent was working as an Extra Departmental Delivery Agent for delivering the letters, telephone bills, etc. to the villagers. A departmental enquiry was conducted against the respondent. According to the petitioners, the respondent, while working as a Mail Deliverer/postman during the period from 28.08.2003 to 27.11.2003 had not delivered twenty ordinary letters and four telephone bills to the addressees and had retained them at his residence. According to the petitioners, the respondent had thereby infringed the provisions of Rules 115, 127, 129, 131 and 132 of the Post and Telegraphs Volume VI Part III and failed to maintain absolute integrity and devotion to duty as contemplated by Rule 21 of Gramin Dak Sevaks (Conduct and Employment)

Rules, 2001. The respondent admitted his guilt and admitted the charges levelled against him. The Enquiry Officer found that the charges stood proved against the respondent without a shadow of doubt. The petitioners removed the respondent from service. The order of removal was challenged by the respondent before the Central Administrative Tribunal. The Central Administrative Tribunal, by the impugned order, partly allowed the original application filed by the respondent and set aside the order of removal. The Tribunal directed the petitioners to reinstate the respondent in service without back wages and consider imposing a lesser punishment on the respondent. The order of the Tribunal is impugned in the instant petition.

On hearing the learned A.S.G.I. and on a perusal of the impugned order, it appears that the view expressed by the Tribunal is a possible view in the matter and the order of the Tribunal cannot be interfered with, in exercise of the writ jurisdiction. The Tribunal held that the respondent had admitted the charges levelled against him and though it was apparent that the respondent was negligent in his duties, there was no ill-motive or *mens rea* in delivering the mail to the villagers belatedly. The Tribunal held that the petitioners had not alleged or proved any *mens rea* or ulterior motive of the respondent. The Tribunal found that there was merely some delay in delivering the letters to the villagers and the punishment imposed on the respondent was shockingly disproportionate to the charges proved against him. While holding so, the Tribunal considered the judgments of the Hon'ble Supreme Court reported in **AIR 2003 SC 3712** (*Deb Singh Versus Punjab Tourism Development Corporation*) and **AIR 2010 SC 75** (*Coal India Limited Versus Muku Kumar Choudhuri*). By following the aforesaid judgments, the Tribunal held that the punishment of removal from service was unduly harsh and grossly excessive. The Tribunal held and rightly so that the respondent should be reinstated without back wages. It appears that,

according to the Tribunal, the punishment of denial of back wages and a punishment lesser than the punishment of removal from service would be proportionate to the charges proved against the respondent. We find that the Tribunal had rightly denied the back wages to the respondent and had directed his reinstatement in service with a direction to the petitioners to consider imposing a lesser punishment on the respondent.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

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