

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

WRIT PETITION No.25014 OF 2016

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

The Union of India and the postal authorities are before this Court aggrieved by the order dated 20.01.2016 passed by the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.249 of 2012. By the said order, the Tribunal set aside the enhanced punishment of removal from service imposed upon the 1st respondent herein and directed his restoration in service without monetary benefits from the date of dismissal till his restoration.

The 1st respondent was appointed as an Extra Departmental Sub-postmaster at Fateh Nagar on 14.07.1984. He was transferred to Kothapalli Branch Post Office on 29.05.1993. While so, charge memo dated 24.04.2009 was issued to him under Rule 10 of the Gramin Dak Sevaks (Conduct & Employment) Rules, 2001 (*hereinafter*, 'the Rules of 2001'). The charge leveled against him was that he had allowed one M.Raju, a Field Assistant, to unlawfully withdraw amounts relating to National Rural Employment Guarantee Scheme (NREGS) beneficiaries. After due enquiry, he was visited with the punishment of debarring him from appearing for the recruitment examination for the post of Postman for a period of three years. This punishment was imposed upon him under proceedings dated 30.10.2009 of the Superintendent of Post Offices, Medak Division, Medak. However, exercising *suo motu* revisional power under Rule 19 of the Rules of 2001, the Postmaster General, Hyderabad Region, called upon the 1st respondent to show cause as to why the punishment imposed upon him should not be enhanced to removal from service. After considering the 1st respondent's representation, the Postmaster General enhanced his punishment to that of removal from employment with immediate effect, by his proceedings 17.02.2012. Aggrieved thereby, the 1st respondent approached the Tribunal by way of O.A.No.249 of 2012.

Having duly considered the matter, the Tribunal observed that the 1st

respondent was not found guilty of misappropriation and the Field Assistant who had actually committed the irregularity had thereafter reimbursed the amounts unlawfully withdrawn by him. The Tribunal therefore opined that the revisional authority had not exercised its discretion judiciously in enhancing the punishment so harshly.

Heard Sri B.Narayana Reddy, learned Assistant Solicitor General for India, and Sri M.Venkanna, learned counsel for the 1st respondent.

Admittedly, the enquiry instituted against the 1st respondent did not disclose any defalcation of the NREGS funds by him. He was found guilty of laxity and irresponsibility in discharge of his duties and it was owing to this that he was visited with the punishment of not being allowed to appear in the recruitment examination for the post of Postman for a period of three years. This order was passed on 30.10.2009. However, the revisional authority found that it was a fit case to enhance the punishment imposed to that of removal from employment. The proceedings dated 17.02.2012 of the revisional authority read thus:

‘6. I have gone through the records of the case and submissions made by the GDS. There is no merit in the submissions made by the GDS, and accordingly, I reject the submissions of the GDS. Therefore, I, Vishvapavan Pati, Postmaster General, Hyderabad Region, in exercise of the powers conferred vide Rule-19 of GDS (Conduct & Employment) Rules, 2001 and as proposed in this office memo of even No. dated 07.04.2011, revise the punishment of “debaring the GDS official from appearing in the recruitment examination for the post of Postman for a period of 3 years to Sri Md. Altaf Hussain and the period of Put-Off duty from 19.10.2007 to 21.04.2009 will be treated as such for all purposes” to that of “Removal from Employment” with immediate effect.’

The revisional authority did not even deem it necessary to disclose the reasons as to why it found this a fit case to override the punishment originally imposed and substitute it with the enhanced punishment of removal from service. Trite to state, it is not open to a quasi judicial authority to exercise discretion in matters of this nature without even disclosing the reasons therefor.

That apart, this Court is of the opinion that when the admitted fact is that the 1st respondent was neither charged nor found guilty of misappropriation, the punishment of removal from service ultimately imposed

upon him is shockingly disproportionate to the proved charge of laxity and irresponsibility in discharge of duties. Further, we find that the 1st respondent has been sufficiently punished for the lapses on his part in this regard as he has not only been denied the right to participate in selections for recruitment to the post of Postman for three years but has also been denied monetary benefits for the period that he remained out of service, by virtue of the order passed by the Tribunal.

We therefore see no grounds to interfere with the order under challenge. The writ petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M.SEETHARAMA MURTI, J

3rd AUGUST, 2016

PGS