

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 23.02.2017

Delivered on: 03.03.2017

Coram

The Honourable Mr. Justice K.K.SASIDHARAN  
and

The Honourable Mr. Justice V.PARTHIBAN

W.P.No.19388 of 2014

P.Ponraj

... Petitioner

versus

1. Union of India,  
rep. by the Postmaster General,  
Southern Region (TN),  
Madurai-625 002.

2. The Director of Postal Services,  
O/o the Post Master General,  
Southern Region (TN),  
Madurai-625 002.

3. The Senior Superintendent of Post Offices,  
Tuticorin Division,  
Tuticorin-628 008.

4. The Registrar,  
Central Administrative Tribunal,  
Chennai-600 104.

.. Respondents

Prayer: This Writ Petition is filed under Article 227 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to order of 4th respondent insofar as the order made in O.A.No.588 of 2012 vide order dated 28.04.2014 concerned & quash the same and consequently direct the respondents 1 to 3 to reinstate the petitioner into service with all attendant benefits.

For Petitioners: Mr. R.Malaichamy

For Respondents: Mr.S.Pavesh Kannan, CGC  
for R1 to R3

R4 : Tribunal

ORDER

V.PARTHIBAN, J.

This Writ Petition has been filed against the order, dated 28.4.2014 passed by the learned Central Administrative Tribunal (in short, 'the Tribunal'), Madras in O.A.No.588 of 2012, dismissing the original application filed by the petitioner herein.

2. The learned Tribunal, by common order dated 28.4.2014, along with the above said O.A., has also dismissed another O.A. No.606 of 2011 since the relief claimed in both the applications are interlinked. However, as far as the present Writ Petition is concerned with the order passed in O.A. No.588 of 2012.

3. The petitioner herein has approached the Tribunal for the following relief:

"i) To call for the records of the 1st respondent pertaining to his show cause notice made in Memo No.VIG/12-13/21/11MA dated 12.01.2012 and his order removing the applicant from service made in Memo No.VIG/12-12/21/11/MA dated 29.3.2012 and set aside the same, consequent to

ii) Direct the respondents to post the applicant as Gramin Dak Sevak Branch Postmaster, Suganthalai BO with all service benefits."

4. While working as Gramin Dak Sevak Branch Postmaster, the petitioner was put off duty with effect from 15.2.2008 by the Assistant Superintendent of Post Officer vide order dated 18.2.2008. Thereafter, a charge memo was issued on 7.7.2009 for certain acts of misconduct. An inquiry was conducted under Rule 10 of the GDS (Conduct and Employment) Rules 2001 (in short, 'the GDS Rules'). Before the inquiry, the petitioner appears to have admitted the charges and therefore, the charges were held to be proved. Thereafter, vide order dated 4.11.2010, the third respondent imposed the punishment of debarment from appearing in the recruitment test for the post of Postman for a period of three years.

5. While the matters stood thus, the petitioner was issued a show cause notice dated 12.01.2012 by the Postmaster General,

Southern Region, calling upon him to show cause as to why he should not be removed from service, by exercising power of suo motu revision as provided for in the GDS Rules. According to the official respondents, the initial punishment imposed on the petitioner was not proportionate to the gravity of offence committed by him. In response to the show cause notice, a reply was given by the petitioner that he was already imposed with the penalty on 4.11.2010 and that he cannot be punished twice for the same alleged incident. Thereafter, vide order dated 29.03.2012, the petitioner was removed from service. The impugned show cause notice dated 12.1.2012 and the order of removal were the subject matter of the O.A.

6. Before the Tribunal, it was contended on behalf of the petitioner that suo motu revision exercised under Rule 19(1)(i) of the GDS Rules cannot be countenanced in law in view of the fact that the power had been exercised beyond the period of six months from the date of issue of original punishment by the disciplinary authority. The show cause notice issued under the suo motu revision was after 14 months, therefore, the show cause notice suffers from want of jurisdiction and hence, prayed for setting aside impugned notice and the consequential the order of removal from service.

7. Per contra, it was contended on behalf of the respondent that the petitioner himself admitted the charges and no assurance of any kind was given to him as contended on behalf of the petitioner. In fact, as could be seen from the record, the petitioner has admitted the charges levelled against him unconditionally. Moreover, the charges levelled against the petitioner were very serious in nature namely, misappropriation of public money and therefore, the competent authority thought it fit to impose the penalty of removal from service which was proportionate to the gravity of offence alleged against the petitioner. It was further contended that as per the Rules, there was no time limit for exercising suo motu revision by the Head of the Department or the Government and in the instant case, the revision has been exercised by the Department and hence, the question of application of limitation would not arise.

8. After taking note of the submissions of the parties, the learned Tribunal dismissed the application as devoid of merits. The learned Tribunal had rightly come to the conclusion that a careful reading of the Rules indicate that the time limit of six months is not applicable for suo motu revision by the Government or Head of the Department or Postmaster General and therefore, the learned Tribunal held that the reliance placed upon by the

petitioner would not be applicable to the factual matrix of the present case.

9. The punishment of removal from service was imposed by the first respondent and therefore, he being the Postmaster General of Southern Region, time limit prescribed under the GDS Rules would not be applicable to the said authority exercising the power under Section 19(1)(i) of the GDS Rules. As against the order passed by the learned Tribunal, the present Writ Petition has been filed.

10. Mr.R.Malaichamy, learned counsel appearing for the petitioner strenuously contended that the time limit prescribed by the Hon'ble Supreme Court must be adhered to otherwise, it will give unbridled power to the authority concerned for exercising suo motu revision at any point of time. In support of his contention, the learned counsel relied upon the following decisions, viz., i) Order of this Court dated 2.7.2011 in W.P.No.17278 of 2014; ii) Order of this Court dated 13.3.2012 in W.P.Nos.15574 of 2010 and 1313 of 2012; iii) 2011 (2) SCC (L&S) 250 (Union of India and others versus Vikrambhai Maganbhai Chaudhari).

11. Heard the learned counsel appearing for the parties and perused the entire materials available on record.

12. We gave our anxious consideration to the decisions cited by the learned counsel for the petitioner. However, on going through the same, we find that the same cannot be applied to the facts of the present case in view of clear language contained in Rule 19(1)(i) of the GDS Rules which does not prescribe any time limit for suo motu exercise of revision by the Government or Head of the Department, etc. When the language of the provision is very clear, the same cannot be given a go-by unless the same is extremely arbitrary and irrational and unreasonable. Even assuming that there should be some time limit for exercising such suo motu power of revision, the petitioner has not chosen to challenge the Rule as it stand today and therefore, the Court cannot supplement something which is not found in the Rules. We also find that the only ground on which, the punishment of removal from service was assailed on the ground of delay in exercise of power suo motu revision and the said contention having been discountenanced, there was nothing else left for either the Tribunal or for this Court to adjudicate. In such view of the matter, we do not find any infirmity in the order passed by the learned Tribunal and we also do not find any merit in the contention put forth by the learned counsel for the petitioner in order to interfere with the order of the learned Tribunal.



For the foregoing reasons, the Writ Petition fails and it is dismissed. No costs.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Postmaster General,  
Union of India,  
Southern Region (TN),  
Madurai-625 002.

2. The Director of Postal Services,  
O/o the Post Master General,  
Southern Region (TN),  
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3. The Senior Superintendent of Post Offices,  
Tuticorin Division,  
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4. The Registrar,  
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Chennai-600 104.

+1cc to Mr.R.Malaichamy, Advocate Sr.13783

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