

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Petition No.28847 of 2017

1. Union of India
rep. by the Chief Postmaster General
Tamil Nadu Circle
Chennai 600 002.
2. The Postmaster General
Chennai City Region
Chennai 600 002.
3. The Senior Superintendent of Post Offices
Pondicherry Division
Pondicherry 605 001. ... Petitioners

Vs.

1. The Central Administrative Tribunal
rep. by its Registrar
Madras Bench
Chennai 600 104.
2. V.Ravichandran ... Respondents

Petition under Article 226 of the Constitution of India
praying for a writ of Certiorari calling for the records
relating to the order dated 05.01.2017 made in O.A.No.1850 of
2014 on the file of the first respondent and to quash the same.

For Petitioners : Mr.C.V.Ramachandramurthy
For Respondent-2 : Mr.R.Malaichamy

O R D E R

(Made by Huluvadi G.Ramesh, J)

This writ petition is directed against the order of the
Central Administrative Tribunal dated 05.01.2017 made in
O.A.No.1850 of 2014.

2. The gist of the facts that led to the filing of the writ petition is as follows:

The second respondent was appointed as Gramin Dak Savak Branch Post Master, Perumbakkam Branch Office on 14.3.1991. Thereafter, he was selected to Army Postal Service on deputation by proceedings dated 09.10.2007. Though he was allotted to Pondicherry Head Office on 13.10.2007 for one day, he was relieved on 23.10.2007 and reported before Branch Recruiting Officer. On 31.3.2010, he was discharged from Army Postal Service on his application for repatriation to Parent Department and joined duty at Pondicherry Head Office as Speed Postman. On 23.11.2010, he was placed under suspension with regard to an alleged occurrence that took place in 2007, relating to misappropriation a sum of Rs.15,000/- and Rs.50/-. Thereafter, a charge memo was issued on 27.10.2011 and pursuant to the enquiry, he was dismissed from service. Therefore, the second respondent preferred an appeal before the second petitioner and the same was rejected. Thereafter, he filed a petition before the first petitioner and the same was also rejected. Hence, the second respondent filed O.A. The Tribunal allowed O.A. on the ground that the enquiry report was only based on the alleged admission of the second respondent and that the charges were not proved by the prosecution witnesses and therefore, it amounted to violation of natural justice. Hence, the above writ petition by the Union.

3. According to the petitioners, the enquiry was concluded only on the basis of the admission of charges by the second respondent and therefore, proving of charges by the complainants is not necessary and hence, the finding of the Tribunal that the enquiry was conducted in violation of natural justice is arbitrary and illegal and therefore, the same has to be set aside.

4. Per contra, it is contended by the second respondent that failure on the part of the Enquiry Officer to enquire the complainants, based on whose complaint charge sheet was issued, in order to prove the charges, though they were summoned, vitiates the enquiry proceedings. Further, it is contended that the complaint was given after a period of three years of the alleged date of occurrence, which would show that it is not a genuine one and therefore, the Tribunal is right in setting aside the order of dismissal.

5. We have heard the learned counsel appearing for both the parties and also perused the typed set of papers.

6. It is seen from the documents filed in support of the above writ petition that the second respondent had denied the charges framed against him on the ground that a sum of

Rs.15,000/- was taken as hand loan from the complainant Maheswari and since he was deputed to Army Postal Service, he could not repay the said loan and therefore, there was no misappropriation of funds. Assuming without admitting that if the complaint given by Maheswari is a genuine one, she ought to have attended the enquiry to prove the charges framed on the basis of the complaint given by her.

7. Though it is contended by the petitioners that when the second respondent had admitted the charges, the same need not be proved by the complainant and that there is no violation of principles of natural justice in the procedure followed by them during the enquiry proceedings, failure on the part of the complainant to prove the charges and concluding the enquiry based on the alleged admission of the second respondent, particularly when the second respondent had denied the charges, in our opinion, would vitiate the enquiry proceedings, as rightly held by the Tribunal.

8. In the peculiar facts and circumstances of the case, we are of the view that the order of the Tribunal has to be upheld and the matter has to be enquired afresh by the Department, since charges were denied by the second respondent. Therefore, we remit the matter to the Department to conduct enquiry into the charges afresh, from the stage of denial of charges and after giving reasonable opportunity to the second respondent to defend his case, to pass orders in accordance with law, within three months from the date of receipt of a copy of this order. It is made clear that all the contentions are left open to both the parties.

9. The writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, WMP No.31064 of 2017 is closed.

kpl

Sd/-

Assistant Registrar

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Sub-Assistant Registrar

To

1. The Registrar
Central Administrative Tribunal
Madras Bench
Chennai 600 104.

2.The Postmaster General,
Chennai City Region,
Chennia-600 002.

+1CC to Mr.R.Malaichamy, Advocate in SR.NO. 10755

+1CC to Mr.C.V.Ramachandramurthy, Advocate in SR.NO. 10591

W.P.No.28847 of 2017

MLT-27/03/2018



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