

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No. 27600 of 2017

T. Chennaiyan

...Petitioner

Vs.

1. Union of India,
Rep. By the Member (P),
Ministry of Communications and I.T.,
Department of Posts,
Dak Bhavan,
Sansad Marg,
New Delhi - 110 001.
 2. The Postmaster General,
Western Region (TN),
Coimbatore - 641 002.
 3. Inspector of Posts,
Tirupattur Sub-Division,
Tirupattur - 635 601.
 4. The Registrar
Central Administrative Tribunal,
Chennai - 600 104.
- ...Respondents

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of 4th respondent pertaining to its order which is made in OA 310/01877/2014 dated 15.12.2016 and quash the same, consequent to direct the respondents 1 to 3 to reinstate the petitioner into service as GDS MD with all attendant benefits.

For Petitioner : Mr. R. Malaichamy

For Respondent : M/s. V. Chandrasekaran,
Spl. Government Pleader for R1 to R3
R4 - Tribunal.

O R D E R

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner was proceeded with after framing charges. The charges are to the effect that while working as Gramin Dak Sevak Mail Deliverer (GDS MD), Agaram BO, the petitioner after making a record that the amount of Rs. 400/- on three occasions meant to be payable to three persons was in fact paid, did not actually pay them. Accordingly, he was charged for failing to follow the Rule 121 of Postal Manual Volume VI Part III, and Rule 10 of Book of BO Rules (VI edition - reprint) and thereby failed to maintain absolute integrity and devotion to duty as required of him under Rule 21 of GDS (Conduct and Employment) Rules 2001.

2. The petitioner pleaded guilty before the disciplinary authority and accordingly a minor punishment of debarring him from appearing in recruitment examination for three years was imposed. This decision of the disciplinary authority was taken up by the appellate authority in exercise of suo motu revisional powers and accordingly, the second respondent, in exercise of the power conferred under Rules 19(1)(i) of the Rules imposed the punishment of "Removal from Engagement" after issuing a show cause notice to the petitioner. This was put to challenge before the Tribunal. The Tribunal dismissed the application and hence the present writ petition.

3. Learned counsel for the petitioner has submitted that the Respondent No. 2 has passed an order by wrongly exercising Rule 19 and, therefore, the order of the Tribunal requires interference.

4. Learned counsel for respondents 1 to 3 submitted that there is no bar for exercising the power under Rule 19 by the Respondent No.2, as the petitioner was put to notice before passing the order under challenge. He submitted that no interference is required with the order of the Tribunal which had rightly taken into consideration all the relevant materials.

5. On the question of jurisdiction, we find that inasmuch as the revisional authority is concerned primarily with the order passed by the disciplinary authority, which has attained finality, there is no bar for exercising the said power by the Respondent No.2. Therefore, we uphold the power of the Respondent No.2 in passing the impugned order. However, we find that the Respondent No.2 has not taken into consideration the order passed by the appellate authority, which reviewed the case of the petitioner under Rule 19 of the Rules and decided not to modify or set aside the order. Certainly, it is a piece of evidence to be appreciated which may also have a bearing with respect to the quantum of punishment in the event a conclusion is arrived at against the petitioner. May be the Respondent No.2 would not have even ventured into the matter by exercising the power under Rule 19, had he known that the Appellate Authority had already reviewed the matter. Suffice it to state that the impugned order does not make any reference to the revisional order passed by the appellate authority.

6. In such view of the matter, we are inclined to set aside the order under challenged before the Tribunal. The Respondent No.2 is directed to consider the earlier order passed by the appellate authority, and thereafter come to a conclusion. As we are dealing with a case involving acceptance of guilt by the delinquent, it is well open to the Respondent No.2 to consider imposing a lesser punishment than the one which has been imposed in the impugned order.

7. Accordingly, the order of the Tribunal is set aside as also the impugned order passed by the Respondent No. 2. The matter stands remitted to the Respondent No.2 for fresh consideration. In the light of the observation made above, appropriate orders will have to be passed within a period of 8 weeks from the date of receipt of a copy of this order. It is also well open to the petitioner to make a further representation to the Respondent No.2 in this regard.

In view of the above, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssm

To

1. The Ministry of Communications and I.T.,
Department of Posts,
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Sansad Marg,
New Delhi - 110 001.
2. The Postmaster General,
Western Region (TN),
Coimbatore - 641 002.
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Tirupattur Sub-Division,
Tirupattur - 635 601.
4. The Registrar
Central Administrative Tribunal,
Chennai - 600 104.

+1cc to Mr.R.Malaichamy, Advocate sr.85557

+1cc to Mr.V.Chandrasekaran, Advocate sr.85319

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srg 11/01/2019



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