



WEB COPY



W.P.No.24070 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.24070 of 2022
and W.M.P.No.23050 of 2022

1. The Union of India
Rep. by the Director of Postal Services,
Southern Region,
Tamil Nadu Circle,
Madurai – 625 002.
2. The Senior Superintendent of Post Officers,
Dindigul Division,
Dindigul – 624 001.

.. Petitioners

Vs.

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Campus,
Chennai – 600 104.
2. M.M.Philomine Raj Seletine,
Postal Assistant,
Nagalnagar SO,
Dindigul – 624 003.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for records in respect of the impugned order dated 31.10.2019 in O.A.No.606 of 2014 passed by the first respondent and quash the same.



WEB COPY



W.P.No.24070 of 2022

For Petitioners : Mr.N.Ramesh
Senior Standing Counsel for P&T
R1 : Tribunal
For R2 : Mr.S.Arun

ORDER

(Order of the Court was delivered by V.LAKSHMINARAYANAN,J.)

This Writ Petition has been filed challenging the order of the Central Administrative Tribunal, Chennai, passed in O.A.No.606 of 2014 dated 31.10.2019.

2. The facts leading to the present proceedings are the second respondent before this Court filed original application in O.A.No.606 of 2014, to set aside the Memo No.F1/09/08-09 dated 11.12.2012 and Memo No.VIG/15-17/13-14 dated 31.12.2013 passed by writ petitioners herein and for the consequential orders. The Tribunal allowed the application and set aside the proceedings on 31.10.2019. Challenging the same, this Writ Petition has been filed on 05.09.2022.

3. There is no explanation in the affidavit as to why the order has been challenged after nearly three years. In the mean while, the second respondent has retired from service in the year 2022. However,



we are not inclined to dismiss the Writ Petition only on the ground of delay and laches.

4. The applicant was working as Postal Assistant at Nagal Nagar in Dindigul Division. He was visited with charge Memo on 15.06.2012 and he had submitted response to the same on 03.07.2012. He had requested exoneration from all charges and in case, his explanation was not accepted, for oral enquiry as per Rule 16(1-A) of CCS (CCA) Rules, 1965. Soon after his response dated 03.07.2012, the writ petitioners had communicated him that they were dropping the proceedings in and by way of a letter dated 24.08.2012. The letter dated 24.08.2012 is extracted for ready reference :-

“WHEREAS Sri.M.M.Philomin Raj Selastine, Sub Postmaster, Sanarpatti SO 624304 has been proceeded under Rule 16 of Central Civil Services (Classification, Control and Appeal) Rules 1965 vide this Office Memo No.F1/09/08-09 dated 15.06.2012.

NOW, THEREFORE, the undersigned hereby drops the above said proceedings without prejudice to further action which may be considered in the circumstances of the case”



5. After having dropped the proceedings, fresh proceedings were initiated on the very same set of charges by the writ petitioners against the second respondent. He filed representation on 24.09.2012 and according to the applicant without considering the representation, it was decided on 11.12.2012 (impugned proceedings) to withhold one increment for the period of two years without cumulative effect from 01.07.2013. He preferred statutory appeal on 26.04.2013. The said appeal was rejected on technical grounds that the proceedings are barred by time. The appellate order was passed on 31.12.2013.

6. According to the applicant before the Tribunal, the proceedings are contrary to the direction of the Director General of Post and Telegram in his order in letter No.114/324/78-Disciplinary II dated 05th July, 1979. The specific case before the Tribunal is that the dropping of charges, which has been extracted as above, does not disclose any reasons as required by the proceedings dated 05.07.1979, which are binding on the writ petitioners. The writ petitioners, as respondents before the Tribunal, filed a detailed reply.



7. According to them, an enquiry was conducted by the department to find out certain fraudulent activities in the recurring deposit accounts. It was deducted on 24.11.2008. On the basis of the said enquiry, a charge memo was issued under Rule 16 of CCS (CCA) Rules, 1965. They took note of the representation of the applicant dated 24.09.2012, against the charge memo and dropped the same. According to them, no reason needs to be stated for dropping the charge memo dated 15.06.2012. They were entitled to take further action considering the facts and circumstance of the case and the letter dropping the charges itself states that it is without prejudice to their rights to initiate action.

8. The Tribunal framed a question of law whether the respondents are entitled to issue fresh charge memo on the same facts when the earlier charge memo has been dropped without specifying the reasons for the same. It had answered the question in favour of the applicant and allowed the application.

9. According to Mr.Ramesh, learned Senior Counsel appearing for the petitioners, the reasons need not to be stated as the proceedings referred to above of the Director General of Postal Department are only instructions and it does not have the force of law.



WEB COPY

10. We are not in agreement with the learned counsel for the petitioners because the circular has been issued by the highest authority of the department viz., The Director General of Post and Telegram. The said authority is vested with the powers to give instructions to his subordinates. It has been in force for more than 50 long years. We requested the learned Senior Counsel, if the said letter withdrawn or has been modified subsequently. He fairly stated that the said letter continues to be in force and neither has been withdrawn nor has been amended. We extract the relevant portion of the letter for the immediate reference :-

“(3) Reasons for cancellation of original charge-sheet to be mentioned if for issuing a fresh charge-sheet – It is clarified that once the proceeding initiated under Rule 14 or Rule 16 of the CCS (CCA) Rules, 1965, are dropped, the Disciplinary authorities would be debarred from initiating fresh proceedings against the Delinquent officers unless the reasons for cancellation of the original charge-sheet or for dropping the proceedings are appropriately mentioned and it is duly stated in the order that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case. It is therefore, important that when the intention is to issue a subsequent fresh



charge-sheet, the order cancelling the original one or dropping the proceedings should be carefully worded so as to mention the reasons for such an action and indicating the intention of issuing a subsequent charge-sheet appropriate to the nature of charge the same was based on.”

11. The instruction is extremely clear. It says that if the disciplinary proceedings, which have been initiated and are subsequently dropped, the authority is debarred from initiating fresh proceeding unless the reason for cancellation by the original authority as well as/or for dropping of the proceedings mentioned in the very same order dropping the proceedings. The letter which has been extracted above (paragraph No.4) shows that no reasons have been given for dropping the charges.

12. It is pertinent to point out that the learned counsel appearing for the petitioners submits that subsequently they had given the reasons after issuance of the fresh proceedings. It is neither satisfies the letter nor spirit of the instruction of the Director General of Post & Telegram dated 05.07.1979. Apart from this, the Tribunal had referred to the judgment of the Central Administrative Tribunal as well as the Karnataka High Court



W.P.No.24070 of 2022

and has come to the correct conclusion that proceedings once the charges had dropped without giving any reason, a proceeding cannot be re-initiated and has further held that the proceedings dated 05.07.1979 are binding on the writ petitioners.

13. We know that our jurisdiction under Article 226 of the Constitution of India is visitorial or supervisory in nature. We are not concerned with the decision but the decision making process. However, for the sake of our satisfaction, we went through the order, Rules and the circulars. We do not find any perversity or illegality in the same. Therefore, we are not inclined to interfere with the order passed by the Central Administrative Tribunal.

14. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

(V.M.V., J) (V.L.N., J)
30.03.2023

Index : Yes / No
Neutral Citation : Yes / No
rts



W.P.No.24070 of 2022

WEB COPY

- To
1. The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Campus,
Chennai – 600 104.



WEB COPY



W.P.No.24070 of 2022

**V.M.VELUMANI,J.
and
V.LAKSHMINARAYANAN,J.**

rts

Writ Petition No.24070 of 2022
and W.M.P.No.23050 of 2022

30.03.2023