



WEB COPY



Writ Petition No.36134 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.02.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition No.36134 of 2023
and W.M.P.No.36088 of 2023**

1. Union of India rep. By
Rep. By Postmaster General,
Southern Region, Tamil Nadu,
Madurai – 625 002.

2. The Director of Postal Services,
Southern Region, Tamil Nadu,
Madurai – 625 002.

3. The Senior Superintendent of Post Offices,
Kanyakumari Division,
Nagercoil – 629 001.

... Petitioners

Vs.

1. The Registrar,
The Central Administrative Tribunal,
Chennai Bench, Chennai – 600 104.

2. N.Vijayachandran

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating



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to the O.A.No.1589/2016 dated 31.03.2023 on the file of the 1st respondent and quash the same.

For Petitioners : Mr.K.Subbu Ranga Bharathi
For Respondents : R1- Tribunal
Mr.K.M.Ramesh
Senior Counsel
for Mr.V.Subramanai [R2]

ORDER

(Order of the Court was made by R.SURESH KUMAR,J.)

This writ petition has been filed against the order passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.1589 of 2016 dated 31.03.2023.

2. Against the second respondent a disciplinary proceedings has been initiated, where based on the Enquiry Officer's report, as the charge framed against him since was proved, the Disciplinary Authority i.e., third respondent before the Tribunal had imposed a punishment of reduction of pay by one stage for a period of four years without cumulative effect.



3. As against the said punishment awarded against the second respondent he had not filed any appeal as he has accepted the same to undergo the said punishment.

4. Subsequently, the second respondent in the OA had issued a show cause notice dated 06.10.2015 stating in exercise of the revisional power under Rule 19 of the GDS conduct and Engagement Rules [in short, 'the Rules'] he has proposed to enhance the penalty.

5. This move made by the second petitioner herein, who was the second respondent therein was opposed by the original applicant despite that the second respondent in the OA had imposed the major punishment of removal of service by order dated 08.07.2016 that was questioned before the Tribunal in the said OA.

6. The two grounds had been raised before the Tribunal on behalf of the employee. One is that the second respondent in the OA i.e., second petitioner herein did not have such a power to *suo mottu* review the punishment that has been awarded after consideration of the Disciplinary Authority. The second ground that was raised on behalf of the employee



was that the punishment of removal of service, which is a maximum, is shockingly disproportionate even to the proven charges, therefore on that ground also it was assailed.

7. The Tribunal having considered all these points accepted both the grounds raised on behalf of the employee and ultimately allowed the said OA through the order against which, this writ petition has been filed.

8. Heard Mr.K.Subbu Ranga Bharathi, learned Standing Counsel appearing for the petitioner Department, who relied upon Rule 19 under the heading of Revision. By relying upon the said rules he has stated that the Authority concerned i.e., second respondent therein has got jurisdiction and power to *suo mottu* revise any punishment imposed or awarded by the Disciplinary Authority.

9. We have also heard Mr.K.M.Ramesh, learned Senior Counsel appearing for the second respondent.

10. In the impugned order, the Tribunal though has accepted the ground of jurisdiction, however ultimately has concluded that, assuming



if the second respondent has got an Authority to *suo mottu* review the punishment and to impose the maximum punishment of removal of service, that punishment is shockingly disproportionate and the reason given by the Tribunal, is reflected in paragraph 10 of the judgment, which is impugned herein, is as follows:

“10. Even assuming for a moment the revisional authority is competent to suo moto review the disciplinary authority's order, however the said revisional authority cannot totally ignore the analysis made by the disciplinary authority wherein the disciplinary authority while coming to the conclusion to impose the said penalty of reduction in pay has observed that the applicant has done this unknowingly. Hence in our considered opinion, the punishment imposed by the revisional authority is shockingly disproportionate. Moreover, the order of the disciplinary authority has to reviewed within six months from the date of its order but the same has been reviewed by the revisional authority beyond six months which is against the purview of the power and exceeded the jurisdiction. Hence the impugned order dated 08.07.2016 is quashed and set aside. OA is allowed to the extent indicated above. No order as to costs.”

11. The Tribunal has found that the Disciplinary Authority in fact originally imposed the punishment of reduction of pay at one stage for a



period of four years without cumulative effect because the employee had done the mistake unknowingly. When that being the position, the punishment awarded by the disciplinary authority itself being a major penalty, we do not find any reason to enhance the same as such enhancing the punishment to the maximum extent of removal of service as has been rightly held by the Tribunal, is shockingly disproportionate.

12. It is a settled legal proposition that, if the Court finds that the punishment awarded either by the Disciplinary Authority or by the Revisional Authority, which is shockingly disproportionate even against the proven charge, the Court can very well interfere with the proportionality.

13. If that being the legal proposition, since it has been rightly applied by the Tribunal, therefore, we are not inclined to interfere with the punishment of removal of service and the approach of the Tribunal in our considered opinion cannot be found to be erroneous one or a flawed one. Therefore, the impugned order does not warrant any interference at the hands of this Bench.



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WEB COPY Accordingly, this Writ Petition fails and it is dismissed. No costs.

Connected miscellaneous petition is closed.

(R.S.K.,J.)

(K.B., J.)

02.02.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

mp

To

The Registrar,
The Central Administrative Tribunal,
Chennai Bench, Chennai – 104.



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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

mp

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