

12th March, 2025
(D/L No.16)
Ct. No.4
(SKB)

W.P.C.T.105 of 2024

Sudarsan Bandyopadhyay
Versus
Union of India and others

Mr. Debasis Sur,
Mr. Angsuman Patra,
Mr. Hare Krishna Halder
....for the petitioner.

Mr. Swapan Kumar Nandi,
Mr. Guddu Singh
... for the U.O.I.

1. The present writ petition has been filed assailing the judgment of the Central Administrative Tribunal (in short 'CAT'), dismissing the petitioner's O.A, wherein he prayed for setting aside the imposition of a minor penalty by the order dated 04.02.2015 passed by the Disciplinary Authority. Petitioner has also put to challenge the order dated 21.04.2015 passed by the appellate authority affirming the punishment order.
2. While working as an Accountant in the postal department, the petitioner was proceeded against by a charge memo dated 16.05.2014. The charge memo was issued with the intention of imposing a minor punishment and was thus issued under Rule 16 of the CCS (CCA) Rules. The petitioner

was thus allowed ten days time for making a representation.

3. The petitioner did not reply to the charge memo. He rather chose to write letters to the other authorities and seek information by making applications under RTI as regards the Rules under which the petitioner was being proceeded against.
4. The disciplinary authority, thus, proceeded to award punishment to the petitioner. The order of punishment directed reduction of pay by three stages for three years.
5. The petitioner preferred an appeal. The appellate authority remanded the matter to the disciplinary authority for reconsidering the punishment since the punishment awarded was not a minor penalty. The conclusion of the appellate authority was founded on the premises that the petitioner had been served a show-cause under Rule 16 of the CCS (CCA) Rules which is for imposing minor punishment/penalty. For awarding higher punishment (major penalty), the procedure for conducting an enquiry in accordance with Rule 14 was required to be followed. The same had not been done. The disciplinary authority was directed to reconsider the punishment awarded to

the petitioner, afresh. The disciplinary authority thereafter has passed the order of punishment directing the petitioner's pay to be reduced by one stage for three years, that also with cumulative effect. This order is dated 04.02.2015.

6. The petitioner has again availed the remedy of appeal and this time the appellate authority has sustained the punishment order. The appellate authority on 24.04.2015 has, thus, rejected the appeal preferred by the petitioner.
7. It is under such circumstances, that the petitioner approached the Central Administrative Tribunal (in short 'Tribunal').
8. The sum and substance of the case of the petitioner before the Tribunal was that the charges were fictitious. The petitioner also raised an issue regarding the incompetence of the Senior Superintendent of Post Office to issue a show-cause to the petitioner under Rule 16 of the CCS (CCA) Rules.
9. The Tribunal has considered the issues by a detailed reason and speaking order taking note of the fact that the petitioner was an Accountant at the relevant point of time having a Grade Pay of Rs.4200/-. The Tribunal has concluded that the

Senior Superintendent of Post Office was the competent disciplinary authority.

10. There is no provision shown to us in the present proceedings today also that may even suggest that the petitioner's disciplinary authority was required to be someone above the post of Senior Superintendent of Post Office. We, therefore, find no infirmity in the conclusions of the Tribunal.

11. Before parting with the case, we consider it worth taking note that there is no dispute that the petitioner chose not to respond to the show-cause notice issued to him. In this connection, we would consider it appropriate to take notice of the settled legal position arising from the decision of the Apex Court in the case of ***Himachal Pradesh Transport Corporation Vs. K. C. Rahi*** reported in ***(2008)11 SCC 502*** wherein the Apex Court has held that when an opportunity is granted to a person in accordance with principles of natural justice and the person chooses not to avail of such opportunity, it will be considered as a deemed waiver of compliance with the principles of natural justice and a plea regarding non-compliance with natural justice cannot be set up thereafter by such a person. Within the limited

scope of judicial review in respect of departmental proceedings, we find no infirmity in the judgment of the Central Administrative Tribunal dated 07.03.2024 passed on the petitioner's OA No.350/00826 of 2015. The judgment of the Tribunal's order has not occasioned any injustice to the petitioner.

12. We dismiss the writ petition.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)