

22nd July, 2025
(D/L No.156)
Ct. No.4
(SKB)

W.P.C.T.175 of 2015

Bikash Chandra Majhi
Versus
Union of India and others

Mr. Sujit Saha

... for the petitioner.

Ms. Sarda Sha

... for the respondents.

1. The affidavit and the supplementary affidavit filed in court today are taken on record.
2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.
3. The petitioner was working as an Extra Departmental Branch Postmaster attached to Kulai Branch Post Office, P.S.-Ketugram in the District of Burdwan. The authorities found that the petitioner had accepted amounts in the form of deposits from various depositors of the Branch concerned. He issued receipts for the amounts received from them, and also made endorsements in the pass books of the depositors. However, the fund was not deposited in the accounts of the depositors.
4. The petitioner was proceeded against in respect of such charges in a criminal proceedings arising out of Special Case No.1 of 2005 wherein he was

charged with the offence under Section 409 IPC. He was thus placed under “put off” duty by the authority with effect from 19.09.2001.

5. The criminal proceedings resulted in his acquittal on 20.09.2006. Thereafter the petitioner claimed reinstatement; and for treating the put off duty as on duty with pay. The petitioner moved before the Central Administrative Tribunal, Kolkata Branch (in short ‘Tribunal’) by filing Original Application bearing O.A. No.611 of 2008, which was disposed of directing the Disciplinary Authority to pass final orders, reserving the petitioner’s liberty to approach the appropriate forum, if required. The departmental proceedings instituted against him for the same charges had, in the meantime, resulted in an order of punishment of “dismissal from employment, which shall ordinarily be a disqualification for future employment with immediate effect”. The Disciplinary Authority relied upon fact recorded in the enquiry report that the petitioner had admitted to the charges.
6. The petitioner filed an appeal against the findings of the disciplinary authority. The appeal was also rejected by order of the appellate authority dated 18.09.2009.

7. It is under such circumstance that the petitioner approached the Tribunal assailing the orders and seeking a direction for his reinstatement.
8. The Tribunal taking note off the limited scope of review, confined its consideration of the matter with reference to the procedure adopted by the authorities, and has dismissed the original application. The order passed in O.A. No.1717 of 2009 on 25.09.2012 by the Tribunal is put to be challenged in the present proceedings.
9. On consideration of the material on record and after hearing the learned counsel for the parties, we find that the petitioner was “put off duty” in the year 2001. The criminal proceedings culminated in his acquittal in the year 2006. Before the enquiry officer in the proceedings, it is not in dispute that the petitioner has submitted a written admission insofar as the allegations leveled against him are concerned. He, however, has tried to distance himself from such admission by submitting that the admission was obtained from him by taking advantage of his deficiency in English language. It is also submitted that the petitioner is a disabled person and belonging to the Scheduled Castes category. On going through the material placed on record by the petitioner before the Tribunal, we find that he has annexed

copy of response dated 02.04.2006 to the charge memo. In the said response he has stated:

“Therefore, I would further request to you that after disposal of the case which is *sub-indice* at present being special case No.1 of 2005 I shall furnish you the entire facts which will speak for itself and in the meantime if any adverse opinion is taken against me that will be double jeopardy.”

10. He has also claimed to have submitted a written representation dated 26.05.2008, which also is written in English. The petitioner has also filed an appeal in English. In the appeal also the writ petitioner has raised an issue in paragraph 6 which reads as follows:

“6. The disciplinary authority was instrumental in holding the enquiry report as sacrosanct while it was incumbent upon him to sift the evidence adduced before the enquiry officer in his own way and without being influenced by the enquiry report or otherwise, in any manner.”

11. Reading of the appeal filed by the petitioner reveals that even in his appeal he has not asserted regarding filing of a written representation on 26.05.2008 before the Senior Superintendent of Post Offices. A copy of the representation also does not bear any receiving by any authority.

12. In the circumstances, we are of the view that even if the admission was extracted from the petitioner taking advantage of so called his deficiency of the English language, the Tribunal in the earlier Original Application bearing O.A.

No.611 of 2008 had granted an opportunity to the petitioner to submit his representation. From the averments made in the present O.A., out of which the instant writ petition arises, we find that the petitioner has not given any details as to on which date he filed the written statement. The order of the disciplinary authority also records that no representation has been filed against the enquiry report. The petitioner was given an opportunity to take care of this issue regarding his admission being extracted, which opportunity he has not availed of, which is apparent from the above noted facts.

13. For the first time before the appellate authority he has raised the issue of the written admission given by him being on extraneous consideration, extracted by the authorities. Even before the appellant authority he has not stated anything about written statement or written representation dated 26.05.2008 being filed by him before either the enquiry officer or the disciplinary authority.

14. The appellate authority has, therefore, in our opinion, not committed any error in refusing to accept such allegation. Despite opportunity being granted to the petitioner/applicant in terms of the order passed in the earlier O.A.611 of 2008.

The petitioner has not filed or moved his representation against the order of the enquiry officer.

15. The order of the disciplinary authority being founded on the specific written admission of the applicant/petitioner, the further submissions regarding non-compliance with any other procedures, such as examination of witnesses etc. clearly becomes a non-issue. Since the order of the enquiry officer as well as the disciplinary authority is founded on the specific written admission of the petitioner, which was not denied or disputed, despite liberty and opportunity being given, as noted above, we find no infirmity in the conclusion of the Appellate Authority and the order of the Tribunal in not relying upon the petitioner's allegation that the admission was obtained or extracted as alleged.

16. Despite opportunity being given to the petitioner, he has not availed of the opportunity, and, as such, the petitioner is estopped from alleging that his written admission in respect of the charges submitted before the enquiry officer was by resorting to deceit or any kind of coercion. Even otherwise the scope of judicial review with reference to a departmental proceeding is by now well settled. The review is limited to the decision

making process and not the decision itself. We consider it appropriate to refer to decision of the Apex Court in the case of ***Union of India and others Vs. P. Gunasekaran*** reported in ***(2015)2 SCC 610***. In view of the settled legal position regarding the limited scope of judicial review with respect to the departmental proceeding based on this decision of the Apex Court, we do not find any infirmity in the decision of the Tribunal refusing to interfere with the orders passed in the enquiry and the appellate authority.

17. The writ petition is, thus, dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)