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W.P.No.26141 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2025

CORAM:

**THE HON'BLE MR.JUSTICE M.S.RAMESH
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

W.P.No.26141 of 2023
and
W.M.P.No.25537 OF 2023

1.Union of India,
The Director of Postal Services,
O/o. The Postmaster General,
Southern Region (TN), Madurai – 625 002.

2.The Superintendent of Post Offices,
Ramanathapuram Division,
Ramanathapuram – 623 501.

...Petitioners

Vs

1.A.Basheer Ahamed

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

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the entire records of the impugned order dated 18.08.2022 passed in O.A.No.1651 of 2015 on the file of the Central Administrative Tribunal, Madras Bench and quash the same.



WEB COPY



W.P.No.26141 of 2023

For Petitioners : Mr.C.Kulanthaivel

For 1st Respondent : Mr.R.Malaichamy

For 2nd Respondent : Tribunal

ORDER

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

On 03.11.2011, the 2nd petitioner herein had framed three articles of charges against the 1st respondent herein under Rule 14 of CCS (CCA) Rules, 1965, alleging that he had violated the Rules of POSB Manual Vol-I and failed to maintain absolute integrity and devotion to duty. In the departmental inquiry, the Inquiry Officer, through his report dated 16.09.2014, held the first charge as “partially proved” and charges 2 and 3 as “not proved”. However, the Disciplinary Authority/2nd petitioner herein had deviated from the findings of the Inquiry Officer through his proceedings dated 07.10.2014, by holding that the first charge against the first respondent was proved through the documentary evidences in their inquiry and thereby deviated from the findings of the Inquiry Officer. Through the same proceedings, the 1st respondent was also called upon to give his explanation to the deviated finding. The 1st respondent also submitted his explanation on 05.11.2014 and on consideration of the same, the 2nd petitioner had, through his proceedings dated 29.11.2014, held all the

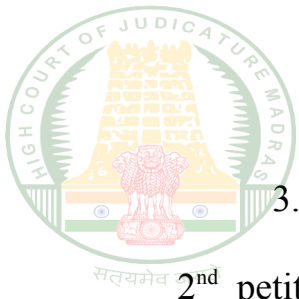


W.P.No.26141 of 2023

three articles as “proved” and imposed the punishment of removal from service with immediate effect.

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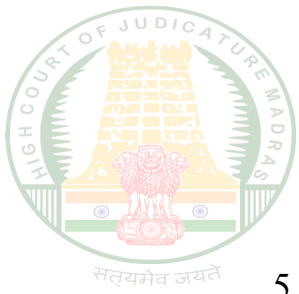
2. The appeal preferred by the 1st respondent to the 1st petitioner against the order dated 29.11.2014 was also rejected on 29.07.2015. Challenging the orders of the petitioners herein dated 29.11.2014 and 29.07.2015 respectively, the 1st respondent had filed an application in O.A.No.1651 of 2015 before the Central Administrative Tribunal, Chennai Bench. The Tribunal had recorded that the Disciplinary Authority had not followed the due process of law while disagreeing with the Inquiry Officer's report and had imposed the maximum punishment of removal from service. It was further recorded therein that the Appellate Authority had also not dealt with as to whether there was any procedural irregularity during the course of inquiry, but had simply rejected the appeal. With such observations, the Tribunal, through its order dated 18.08.2022, had quashed both the orders of the Disciplinary Authority, as well as the Appellate Authority and remanded the matter back to the petitioners to reconsider their decision and pass appropriate orders, after following the due process of law within a period of three months. This order of the Tribunal is assailed in the present Writ Petition.



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3. The learned counsel appearing for the petitioners submitted that the 2nd petitioner herein, while disagreeing with the findings of the Inquiry Officer with regard to the first article, had extended an opportunity to the 1st respondent to give his representation to their proceedings dated 07.10.2014. According to him, such a representation was also given by the 1st respondent on 05.11.2014, which was duly considered by the 2nd petitioner in his proceedings dated 29.11.2014 and thereafter held all the charges to have been proved. It is his further submission that the Appellate Authority had also found that the reasons for disagreement with the findings of the Inquiry Officer were communicated to the 1st respondent and that every reasonable opportunity was extended to him during inquiry and therefore rejected the appeal, which cannot be found fault with.

4. Per contra, the learned counsel for the 1st respondent would submit that, in the proceedings dated 07.10.2014, the 2nd petitioner had deviated from the findings of the Inquiry Officer and already decided that the first charge, which was held as partially proved, to have been fully proved, through documentary evidences and thus was pre-determined to punish the employee. According to him, this aspect, though was brought to the knowledge of the Appellate Authority, was not taken into consideration and therefore, the order passed by the 1st petitioner also is liable to be set aside.



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5. We have given our anxious consideration to the submissions made on either side.

6. In service jurisprudence, the Disciplinary Authority would be well within his powers to deviate from the findings of the Inquiry Officer based on the documentary evidences let in during the course of inquiry and take a contrary view to such findings. However, when the Authority intends to deviate from the report, it is a mandate that the concerned delinquent officer be put on prior notice with regard to the intention of the Disciplinary Authority to deviate from the findings of the Inquiry Officer and set forth the reasons for which the Authority disagrees with the inquiry report. The intention behind this procedure of giving an opportunity to the delinquent officer is to let him know about the views of the Disciplinary Authority for his disagreement and extend an opportunity to him to render his explanation. If the consequential explanation given by the delinquent is accepted, the Disciplinary Authority may take further course of action based on the original inquiry report and in case the reasons are unacceptable, the Authority is required to pass a detailed and speaking order, as to why the explanation rendered by the delinquent, with regard to the deviated views of the Disciplinary Authority, is unacceptable. In the instant case, when the



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Inquiry Officer had held Charge No.1 as partially proved and the remaining two charges as not proved, the Disciplinary Authority, in his letter dated 07.10.2014, had given his views with regard to the inquiry proceedings and had come to the conclusion that the first charge was proved. The relevant portion in the order of the Disciplinary Authority reads as follows:-

“Therefore the disciplinary authority holds that the article of charge-I is proved by way of production of documentary evidence in the enquiry.

The Disciplinary Authority will take a suitable decision after considering your representation. If you wish to make any representation or submission, you may do so in writing to the Disciplinary Authority within 15 days of receipt of this letter.”

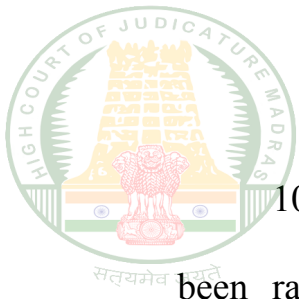
7. From the aforesaid observations of the Disciplinary Authority, it is clearly seen that the Authority had held the first charge as proved on the basis of the documentary evidences available in the inquiry. Having come to the final conclusion that this charge stands proved, he had curiously called for an explanation for the Authority to take a suitable decision on consideration of the same.

8. We fail to understand as to how the Disciplinary Authority, after having concluded that the first charge stands proved, can take any other



view on the first charge, based on the explanation called for from the 1st respondent and deviate from his own finding on the proven charge. The very exercise of the Authority in calling for an explanation from the delinquent, after holding Charge No.1 as proved, would only be an empty formality in the given circumstances. Such a procedure is impermissible in service jurisprudence and is violative of the fundamental principles of natural justice also.

9. This apart, the Inquiry Officer, in his report, had held Charge Nos.2 and 3 as 'not proved'. However, in the subsequent proceedings of the Disciplinary Authority dated 29.11.2014, he had also dealt with Charge Nos.2 and 3 and had deviated from the findings of the Inquiry Officer and held that there were documentary evidences in the inquiry, which are enough to prove these two charges also. To such an intention to render a contrary finding to the Inquiry Officer's report with regard to these Charge Nos.2 and 3, the 1st respondent herein was not put on prior notice with regard to the intention of the Authority to deviate from the findings. In the absence of such a prior show cause notice, the consequential findings that Charge Nos.2 and 3 have sufficient proof to hold the charges as proved, cannot be legally sustained.



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10. In the appeal filed before the 1st petitioner, specific grounds have been raised by the 1st respondent, which have been rejected without assigning any reasons. Thus, the consequential order-in-appeal also cannot be sustained.

11. The Tribunal, while setting aside the order of punishment, as well as the order of the Appellate Authority, had remanded the matter back to the Disciplinary Authority for reconsideration of its decision. We have now considered in detail as to why the orders of both the petitioners herein cannot be legally sustained and therefore, remitting the matter back to the Authorities, in the light of our findings, would not be conducive. We say so also on the appreciation of the fact that the charges were levelled against the 1st respondent way back in the year 2011 and almost 15 years have lapsed since then and the 1st respondent has also reached the age of superannuation on 30.06.2017.

12. In the light of the above observations and findings, the impugned order of the Central Administrative Tribunal, Chennai Bench, dated 18.08.2022 passed in O.A.No.1651 of 2015, insofar as it remands the matter back for reconsideration to the petitioners herein, is quashed. The other observations and findings in the order passed in O.A.No.1651 of 2015,



W.P.No.26141 of 2023

including quashing of the original order of punishment issued by the 2nd petitioner herein in Memo No.F1/1/07-08 dated 29.11.2014, as well as the order of the 1st petitioner herein made in Memo No.VIG/15-33/14-15/MA dated 29.07.2015, are upheld. Consequently, the petitioners shall forthwith pass appropriate orders, notionally retiring the 1st respondent herein from service with effect from 30.06.2017 and settle all the retirement benefits, including the pensionary benefits, in any event, within a period of two (2) months from the date of receipt of a copy of this order.

13. With the above directions, the Writ Petition stands dismissed. No costs. Connected miscellaneous petition is closed.

(M.S.R.,J.) (N.S.,J.)
19.03.2025

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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To

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



WEB COPY



W.P.No.26141 of 2023

M.S.RAMESH,J.
AND
N.SENTHILKUMAR,J.

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W.P.No.26141 of 2023

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