



W.P.No.30247 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2025

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.30247 of 2025

and

W.M.P.Nos.33931 & 33932 of 2025

- 1.Union of India,
Rep. by the Postmaster General,
Central Region (TN),
Tiruchirappalli - 620 001.
 - 2.Director of Postal Service,
O/o.The Postmaster General,
Central Region (TN),
Tiruchirappalli - 620 001.
 - 3.The Superintendent of Post Offices,
Kumbakonam Division,
Kumbakonam - 612 001.
 - 4.Inquiry Officer/ Assistant Superintendent of Post offices,
Nagapattinam Sub Division,
Nagapattinam - 611 001.
 - 5.Presenting Officer / Assistant Superintendent of Post Offices,
O/o.The Superintendent of Post Offices,
Kumbakonam Division,
Kumbakonam - 612 001.
- .. Petitioners

Vs.



W.P.No.30247 of 2025

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N.Tamilselvan,
No.9, SMS Nagar,
Aduthurai, Thiruvudaimaruthur Taluk,
Pin- 612 101.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari calling for the records pertaining to order dated 07.12.2016 passed in Original Application No.186 of 2015 on the file of the Central Administrative Tribunal, Chennai Bench and quash the same.

For Petitioners : Mr.AR.L.Sundaresan
Additional Solicitor General
for Mr.A.R.Sakthivel
Senior Panel Counsel for
Central Government

For Respondent : Mr.R.Malaichamy

ORDER

(Order of the Court was made by G.Arul Murugan, J.)

Heard Mr.AR.L.Sundaresan, learned Additional Solicitor General for the petitioners and Mr.R.Malaichamy, learned counsel for the respondent.



W.P.No.30247 of 2025

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2. Union of India has preferred this writ petition assailing the order passed by the Central Administrative Tribunal, Chennai Bench, dated 07.12.2016 in O.A.No.186 of 2015, whereby the enquiry officer was directed to conclude the enquiry and the decision thereon was to be taken by the disciplinary authority.

3. The short facts to be noted are that the respondent while he was working as a postman in Kumbakonam Postal Division, was found involved in certain fraudulent disbursements under the State Government Old Age Pension Scheme. He was suspended from service on 04.05.2012 and a charge memo dated 30.05.2012 was issued under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 [hereinafter referred to as "the Rules"], levelling three charges.

4. The respondent submitted a reply dated 02.06.2012 admitting his guilt and therefore, without any formal enquiry, a punishment of "reduction of pay by four stages for one year without cumulative effect" was imposed by order dated 12.06.2012. The period of suspension was treated as non-duty period.



W.P.No.30247 of 2025

5. The appellate authority, considering the gravity of offence, decided to review the penalty imposed by the disciplinary authority by invoking Rule 29(1)(v). A show cause notice dated 05.09.2012 was issued proposing to enhance the punishment to dismissal from service. The respondent submitted his reply on 24.09.2012. The appellate authority, by order dated 11.11.2014, directed that an enquiry as required under Rule 14 be conducted by the Superintendent of Post Offices, Kumbakonam Division and the enquiry officer to submit the report within a reasonable time to the appellate authority for finalisation.

6. Aggrieved, the respondent challenged both the proceedings of the appellate authority dated 05.09.2012 and 11.11.2014 in invoking Rule 29(1) for reviewing the penalty and directing the enquiry officer to conduct enquiry and submit a report before him. Pending application before the Tribunal, enquiry officer had completed the enquiry and based on the enquiry report submitted, the appellate authority by order dated 08.08.2016 modified the penalty of "reduction of pay by four stages for one year without cumulative effect" to that of "dismissal from service" with immediate effect.



W.P.No.30247 of 2025

WEB COPY

7. The Tribunal however, by the impugned order concluded that the appellate authority was within its jurisdiction and was right in invoking Rule 29 for review of the punishment. But the Tribunal found fault with the appellate authority in directing the enquiry officer to submit the report before him for taking appropriate decision and held that once the matter was remanded back and a *de novo* enquiry was ordered, then it would only be proper for the disciplinary authority to take appropriate decision on the report submitted by the enquiry officer. Assailing the impugned orders of the Tribunal, employer is before this Court.

8. Mr.AR.L.Sundaresan, learned Additional Solicitor General for the petitioners submitted that the appellate authority had the jurisdiction to review the punishment in view of the gravity of offence by invoking Rule 29(1)(v) of the Rules. When the appellate authority has the power to cancel, modify or set aside the punishment, then it is within the domain of the appellate authority either to conduct an enquiry and pass orders by itself or to remit the matter to any other authority for making such enquiry as per Rule 29(1)(vi)(c). The Tribunal having come to the conclusion that the appellate authority



W.P.No.30247 of 2025

was within its power to review the punishment imposed and the same has also been invoked within the time prescribed, however had erroneously directed the enquiry officer to place the report before the disciplinary authority for passing appropriate orders.

9. Further, learned Additional Solicitor General submitted that even prior to the order of Tribunal, enquiry was completed and the appellate authority based on the report had passed final orders on 08.08.2016 by modifying the penalty from reduction of pay to dismissal from service. When already final orders have been passed dismissing the respondent from service, the directions of the Tribunal in the impugned order becomes redundant. He also submitted that the Tribunal, while directing the disciplinary authority to pass fresh orders based on the enquiry officer, had given a finding that since already the punishment has started to operate, the punishment to be imposed after the present enquiry would amount to double jeopardy and therefore, sought for interference of this Court.

10. Contending contra, learned counsel for the respondent submitted that when punishment has already been imposed by



W.P.No.30247 of 2025

reducing pay by four stages for one year, the proceedings of the appellate authority in invoking Rule 29 to enhance the punishment itself is unwarranted. Further, the appellate authority as per Rule 29(1)(v) can only revise the order within a period of six months and since no such enhancement was imposed within the prescribed period, the entire proceedings of the appellate authority is time barred and without jurisdiction.

11. He further submitted that once the matter is remanded back to the enquiry officer, the appellate authority becomes *functus officio* and it is only the disciplinary authority who could consider the enquiry report and pass orders on the disciplinary proceedings. The Tribunal having rightly found the second part of the direction of the appellate authority to submit the enquiry report before him for passing orders being flawed, had rightly directed the disciplinary authority to pass orders, which is perfectly justified and needs no interference.

12. Heard the rival submissions and considered the materials available on record.



W.P.No.30247 of 2025

13. The respondent, while working as a postman in the Kumbakonam Head Post Office, was suspended from service on 04.05.2012 for being involved in certain fraudulent disbursements in an old age pension scheme. Charge memo dated 30.05.2012 came to be issued under Rule 14, levelling 3 charges. The respondent on submitting a reply dated 02.06.2012 admitting his role, the disciplinary authority by order dated 12.06.2012 without any further enquiry had imposed a punishment of reduction of pay by four stages for one year without cumulative effect.

14. The appellate authority on review of the punishment imposed came to the conclusion that the quantum of penalty was not commensurate with the gravity of offence and proposed to enhance the penalty to that of dismissal from service. The appellate authority by invoking Rule 29(1)(v), issued show cause notice dated 05.09.2012 calling for explanation. The respondent submitted his reply on 24.09.2012.

15. Since the earlier punishment was imposed without any detailed enquiry as contemplated for the proposed punishment to be



W.P.No.30247 of 2025

imposed, by order dated 11.11.2014, the matter was remanded by appointing the Superintendent of Post Offices, Kumbakonam Division as enquiry officer and he was directed to submit the report within a reasonable time before the appellate authority for finalisation of the proceedings. The respondent has assailed these two proceedings of the appellate authority dated 05.09.2012 and 11.11.2014 before the Tribunal.

16. For easy reference, Rule 29(1)(v) and (vi) of the Rules are reproduced as follows:-

"29(1)(v) *the Appellate Authority, within six months of the date of the order proposed to be revised or*

and

(vi) *any other authority specified in this behalf by the President by a general or special order, and within such time as may be prescribed in such general or special order;*

may at any time, either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these rules or under the rules repealed by Rule 34 from which an appeal is allowed, but from which no appeal has been preferred or from which no



W.P.No.30247 of 2025

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appeal is allowed, after consultation with the Commission

where such consultation is necessary, and may-

(a) *confirm, modify or set aside the order; or*

(b) *confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or*

(c) *remit the case to the authority which made the order to or any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or*

(d) *pass such other orders as it may deem fit....."*

17. When a punishment has been imposed by the disciplinary authority, by exercising power under Rule 29(1)(v), the appellate authority can, within six months from the date of the order proposed to be revised may at any time, either on his or its own motion or otherwise, may confirm, reduce, enhance or set aside the penalty imposed by the order or remit the case to the authority which made the order to or any other authority to make such further enquiry as required. The appellate authority either could modify the punishment or remit the matter for fresh enquiry.



W.P.No.30247 of 2025

18. In the instant case, the disciplinary authority imposed the punishment on the respondent delinquent on 12.06.2012 and the appellate authority had rightly invoked the power under Rule 29(1)(v) within a period six months for reviewing the penalty and issued the show cause notice on 05.09.2012 proposing to enhance the punishment.

19. The appellate authority on receipt of the reply remitted the matter for *de novo* enquiry since the enquiry was not earlier conducted for the proposed punishment now sought to be imposed. However, the appellate authority on remanding the matter and appointing an enquiry officer, had committed an error in directing the enquiry officer to submit the enquiry report directly before him for passing appropriate orders.

20. Once the appellate authority had exercised its power and had remanded the matter to the authority for conducting a fresh enquiry, then after the enquiry is completed and enquiry report is submitted, it is for the disciplinary authority to decide on the punishment to be imposed commensurate to the charges levelled. The



W.P.No.30247 of 2025

appellate authority reviewing the order of punishment imposed cannot substitute itself in the place of disciplinary authority which is the original authority to decide on the punishment to be imposed. As such, when the appellate authority had exceeded its jurisdiction, we see no infirmity in the decision of the Tribunal in directing the enquiry report to be placed before the disciplinary authority after completion of the enquiry for taking appropriate decision.

21. We are not in agreement with the submissions made by the learned Additional Solicitor General that in view of the order dated 08.08.2016 passed by the appellate authority by imposing the punishment of dismissal from service, the directions issued by the Tribunal become redundant. When both the proceedings of the appellate authority dated 05.09.2012 and 11.11.2014 are under challenge before the Tribunal and when the Tribunal had concluded that the direction of the appellate authority to the enquiry officer to complete the enquiry and place it before him for taking appropriate decision is erroneous and disposed of the application directing the enquiry officer to conclude the enquiry and place it before the disciplinary authority for taking appropriate decision, the order passed



W.P.No.30247 of 2025

by appellate authority dated 08.08.2016 has no consequence.

However, we agree that any punishment to be imposed after the fresh enquiry would not amount to double jeopardy.

22. For the reasons stated above, the writ petition is partly allowed to the extent the finding that initiation of second enquiry would be a case of double jeopardy is set aside. However, the order of the Tribunal to the extent it directed the matter to be considered by the disciplinary authority is upheld. Considering the fact that already the enquiry report is available and also the respondent has been discharged from service in 2016 itself, while maintaining *status quo*, the proceedings as directed by the Tribunal shall be concluded within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the interim applications are closed.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)
24.10.2025

Index : Yes/No
Neutral Citation : Yes/No
sri



W.P.No.30247 of 2025

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