
(2012) 02 MAD CK 0189
In the Madras High Court
Case No : Writ Petition No. 18309 of 2009

K. Jeyandran

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 02-02-2012

Acts Referred:

Citation : (2012) 02 MAD CK 0189

Hon'ble Judges : N. Kirubakaran, J; Elipe Dharma Rao, J

Bench : Division Bench

Advocate : K. M. Ramesh, for the Appellant; A.S. Vijayaraghavan for R1, M/s. N. Kannagi, SCGSC for R2 and R3 and Tribunal for R4, for the Respondent

Final Decision : Allowed

Judgement

Justice Elipe Dharma Rao

1. Challenging the order passed by the Central Administrative Tribunal, dated 29.04.2009, made in O.A.No. 658 of 2006, thereby rejecting the original application, which was filed by the petitioner against the order of dismissal dated 12.08.2002 passed by the Disciplinary Authority and confirmed by the Appellate Authority and the Revisional Authority vide orders dated 18.07.2003 and 12.01.2004 respectively, the present writ petition has been filed seeking a direction to the respondents 1 to 3 to reinstate the petitioner in service, with back wages, continuity of service and all other attendant benefits. It is the case of the petitioner, who was appointed as Gramin Dak Sevak Sub Post Master, Kil Kotagiri Bazar Extra Departmental Sub Post Office in August, 1979, that while he was working as ED SPM, he was under put off duty on 14.03.1995 due to pendency of certain charges levelled against him and the same was ratified as per order dated 16.03.1995, and against the said orders, he has made a representation to the second respondent on 05.08.1995. It is also the case of the petitioner that he was issued with charge sheet containing six charges on 01.12.1995, in respect of which, an Inquiry Officer was appointed to inquire into the case and he has submitted the inquiry report holding charge Nos. 2 and 6 as

proved and the rest as not proved. It the further case of the petitioner that the Disciplinary Authority, after recording points for disagreement with the findings of the Inquiry Officer in respect of charge Nos. 1, 3, 4 and 5, dismissed the petitioner from service, by order dated 28.11.1997, against which, the appeal and the revision petition filed by the petitioner were dismissed as per orders dated 18.12.1999 and 11.06.2001 respectively.

2. It is the further case of the petitioner that against the aforesaid orders, he has filed O.A.No. 1010 of 2001 before the Central Administrative Tribunal and the Tribunal, as per order dated 02.05.2002, quashed the orders passed by the Disciplinary Authority, Appellate Authority and the Revisional Authority and remitted the matter back to the Disciplinary Authority with a direction to commence the proceedings from the stage where inquiry report was submitted and complete the same within three months from the date of receipt of a copy of that order. Pursuant to the said order, the Disciplinary Authority, after issuing a memo and getting explanation from the petitioner, dismissed him from service vide order dated 12.08.2002 and the same was confirmed by the Appellate Authority as well as the Revisional Authority vide orders dated 18.07.2003 and 29.07.2005 respectively, against which, the petitioner has filed O.A.No. 658 of 2009.

3. The Tribunal, on consideration of the facts and circumstances of the case, dismissed the original application by holding that all the three orders have been comprehensive and passed by the competent authorities adhering to the stipulations as contained in the Rules and the decisions of the Apex Court and no legal flaw could thus be discerned from the judgment. Aggrieved by the said order, the present writ petition has been filed.

4. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

5. We have gone through the entire materials placed on record. From the perusal of the records, it is not clear as to under what provision, the Disciplinary Authority has taken the decision to disagree with the findings of the Inquiry Officer. The learned counsel appearing for the official respondent also failed to bring to our notice as to the procedure followed by the Disciplinary Authority while disagreeing with the findings of the Enquiry Officer for imposing punishment, other than the suggestion made by the Inquiry Officer in the report submitted by him. Therefore, when the Disciplinary Authority has no power to differ with the findings of the Enquiry Officer and come his own conclusion, the entire exercise done by him in passing the order of dismissal against the petitioner, in our considered opinion, is illegal and liable to be set aside. Accordingly, the order of dismissal of the petitioner from service passed by the Disciplinary Authority is set aside. In the result, the Writ petition is allowed. However, this order does not preclude the Disciplinary Authority to impose the punishment as suggested by the Inquiry Officer as per his findings in the inquiry report. However, there will be no order as to costs.