



कार्यालय प्रधान आयुक्त, केंद्रीय वस्तु एवं सेवाकर आयुक्तालय, जयपुर
OFFICE OF THE PRINCIPAL COMMISSIONER
CENTRAL GOODS AND SERVICE TAX COMMISSIONERATE, JAIPUR
नव केन्द्रीय राजस्व भवन, सी- स्कीम, स्टेचू सर्किल, जयपुर
NEW CENTRAL REVENUE BUILDING, C-SCHEME, STATUE CIRCLE, JAIPUR
(सतर्कता शाखा/ **Vigilance Branch**)

आदेश

1. इस आदेश के विरुद्ध अपील संबंधित अधिकारी द्वारा इस आदेश की प्राप्ति की तारीख से 45 (पैंतालीस) दिवस की अवधि के अन्दर प्रधान आयुक्त, केन्द्रीय उत्पाद शुल्क एवं सीजीएसटी, जयपुर को दायर की जा सकती है।
2. यदि अधिकारी इस आदेश के विरुद्ध अपील दायर करता है, तो उसकी एक प्रति अनुशासनात्मक प्राधिकारी को प्रेषित की जाये।

FACTS OF THE CASE:-

1.1 Shri Baldev Sharma, Head Hawaldar, Central Excise & CGST & Customs, Jaipur (hereinafter referred to as "the Charged Officer" or "CO" also) was issued a Memorandum F. No. GEN/VIG/DE/110/2021-Vig-O/o-Commr-Cus-Prev-Jodhpur dated 13.01.2023 under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, wherein the following Articles of Charges were framed against him:-

1.2 Shri Baldev Sharma, Head Hawaldar, Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur), while functioning as such in the Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur), failed to maintain devotion to duty and acted in a manner unbecoming of a Government servant, in as much as: -

- (1) He remained unauthorisedly absent from his duties from 07.03.2021 to 04.08.2021 (151 days), from 16.10.2022 to 06.11.2022 (20 days) and from 10.11.2022 to till date without information/prior permission/ sanction of leave by the competent authority.
- (2) He failed to comply with the directions of his superior officers, in which it was asked to join duty and submit explanation for unauthorized absence.
- (3) He did not show improvement in his past conduct of remaining absent unauthorisedly and failed to comply with the directions of superior officers.

Thus, the said Shri Baldev Sharma, Head Hawaldar, Customs (Preventive) Commissionerate, Jodhpur (Hq at Jaipur) has contravened the provisions of Rule 3(1) (ii) and 3 (1) (iii) of the Central Civil Services (Conduct) Rules, 1964.

2. BRIEF BACKGROUND OF THE CASE:-

2.1 Shri Baldev Sharma, Head Havaladar, while posted at Preventive Branch, Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur), was assigned the Rifle Guard duty from 01.03.2021 to 07.03.2021, however he failed to perform his duties from 07.03.2021 and remained absent unauthorisedly. Shri Baldev Sharma, Head Havaladar remained absent from duty for the period from 07.03.2021 to 04.08.2021 (151 days) without information/prior permission/ sanction of leave by the competent authority.

2.2 It was observed that in the past also Shri Baldev Sharma had remained on leave from 18.01.2021 to 19.02.2021 (total 33 days) without permission. In this regard, an explanation was called vide letter dated 04.02.2021 by the Joint Commissioner (Preventive), Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur), however no reply was submitted by him. Shri Baldev Sharma joined his duties on 22.02.2021 and requested for sanction of Earned Leave. He also undertook vide his letter dated 22.02.2021 that he will not repeat such mistake in future. Therefore, his leave for the said period was sanctioned by the Competent Authority. Since, Shri Baldev Sharma, Head Havaladar again remained absent from duty from 07.03.2021 to 04.08.2021. It appeared that he is habitual of remaining absent from duty unauthorisedly.

2.3 Meanwhile, Shri Baldev Sharma was transferred to ICD Khatuwas and thereafter, Memorandum dated 25.07.2022 issued by the Additional Commissioner (P&V) to Shri Baldev Sharma, Head Havaladar for absence from duty from 07.03.2021 to 04.08.2021 without sanction of leave. In reply to the Memorandum, Sh. Baldev Sharma vide letter dated 03.08.2022 submitted that due to family dispute, he could not attend the office during the relevant period and submitted Earned Leave application for this period.

2.4 The Administrative Officer (DDO), Customs Commissionerate, Jodhpur (Hqrs. at Jaipur) vide letter dated 05.12.2022 informed that in compliance of Establishment Order No. 25/2022 dated 19.09.2022 issued by the Assistant Commissioner (P&V), Customs Commissionerate, Jodhpur (Hq. at Jaipur), Shri Baldev Sharma, Head Hawaldar was relieved on 06.10.2022 from ICD Khatuwas with directions to report for duty to the Assistant Commissioner (Preventive Branch), Customs Commissionerate, Jodhpur (Hqrs. at Jaipur); that Shri Baldev Sharma was to join in Preventive Branch by 16.10.2022 after availing 10 days joining time, but he did not comply with the same; that Shri Baldev Sharma, Head Hawaldar, had submitted joining report in Preventive Branch on 07.11.2022 along with earned leave application for the period 16.10.2022 to

06.11.2022 (20 days); and that the competent authority had not recommended for sanction of leave for the period 16.10.2022 to 06.11.2022 (20 days).

2.5 Letter dated 06.12.2022 was issued to the Assistant Commissioner (Prev) for opinion/recommendation on sanction of leave. In response to this, the Assistant Commissioner (Prev) vide letter F.No. VIII(48)469/Prev/Misc/2022 dated 13.12.2022 submitted that apart from the period 07.03.2021 to 04.08.2021 (151 days), Sh. Baldev Sharma also remained absent from duty without any intimation/sanction of leaves for the period from 16.10.2022 to 06.11.2022 (20 days) and leave for the said period i.e. from 07.03.2021 to 04.08.2021 (151 days) and from 16.10.2022 to 06.11.2022 (20 days) have not been sanctioned yet. Vide the said letter dated 13.12.2022, Assistant Commissioner (Prev.) also informed that Sh. Baldev Sharma remained present in his office till 10.11.2022 (approx. 12 noon) and thereafter, the controlling officer has no information about his whereabouts. The Assistant Commissioner (Prev.) also submitted that Sh. Baldev Sharma is a habitual absentee; therefore, disciplinary action may be initiated against him.

2.6 The Assistant Commissioner (Preventive Branch), Customs Commissionerate, Jodhpur (Hq. at Jaipur) vide letter F.No.VIII(48)89/Prev/2013/Pt dated 02.12.2022, letter F.No. VIII(48)469/Prev/Misc/2022 dated 13.12.2022, letter F.No. VIII(48)469/Prev/Misc/2022 dated 26.12.2022 and letter F.No. VIII(48)469/Prev/Misc/2022 dated 12.01.2023, directed Shri Baldev Sharma, Head Hawaldar, to join the office immediately & clarify the reasons for absence from duty without recommendation/sanction of leave and informing that failing to comply with above, disciplinary action will be taken against him.

2.7 Prior to proceeding on leave, he was required to get his leave recommended from his controlling officer, but Shri Baldev Sharma, Head Hawaldar, did not do so. Moreover, he also failed to attend the office in spite of letters issued to him for joining the office. From the above facts, it appears that Shri Baldev Sharma, Head Hawaldar, remained unauthorisedly absent from office without permission during the period from 07.03.2021 to 04.08.2021 (151 days), from 16.10.2022 to 06.11.2022 (20 days) and from 10.11.2022 to till date and he also failed to comply with the directions of his senior officer.

2.8 In compliance of Rule 25 of CCS(leave) Rules 1972 and GFR17-A's Government of India's decision 1, 2 and 3(2) before initiation of disciplinary inquiry, a reasonable opportunity should be given to the concerned employee. Therefore, Memorandum dated 25.07.2022 issued by the Additional Commissioner (P&V) to Shri Baldev Sharma, Head Hawaldar for absence from duty from 07.03.2021 to 04.08.2021 to explain the reasons and circumstances under which he remained unauthorisedly absent from office. Further, The Assistant Commissioner (Preventive Branch), Customs Commissionerate, Jodhpur (Hq. at Jaipur) vide letter F. No. VIII(48)89/Prev/2013/Pt dated 02.12.2022, letter F.No. VIII(48)469/Prev/Misc/2022 dated 13.12.2022 and letter F.No. VIII(48)469/Prev/Misc/2022 dated 26.12.2022, directed Shri Baldev Sharma,

Head Hawaldar, to join the office immediately & clarify the reasons for absence from duty without recommendation/sanction of leave and informing that failing to comply with above, disciplinary action will be taken against him.

2.9 In reply to the Memorandum dated 25.07.2022, Sh. Baldev Sharma vide letter dated 03.08.2022 submitted that due to family dispute, he was mentally disturbed and could not attend the office during the period from 07.03.2021 to 04.08.2021 (151 days) and submitted Earned Leave application with assurance that he will not repeat the same mistake in future. However, Sh. Baldev Sharma, was again absent from duty without recommendation/sanction of leave for the period from 16.10.2022 to 06.11.2022 (20 days) & from 10.11.2022 to till date. Hence, it is evident that Sh. Baldev Sharma, Head Hawaldar has been repeatedly abstaining from the duty without any authorization.

2.10 Thus, it would emerge from the above that **Shri Baldev Sharma, Head Hawaldar**, Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur):

- (1) Remained unauthorisedly absent from his duties from 07.03.2021 to 04.08.2021 (151 days), from 16.10.2022 to 06.11.2022 (20 days) and from 10.11.2022 to till date without information/prior permission/ sanction of leave by the competent authority;
- (2) Failed to comply with the directions of his superior officers in which it was asked to join duty and submit explanation for unauthorized absence;
- (3) Did not show improvement in his past conduct of remaining absent unauthorisedly and failed to comply with the directions of superior officers.

Thus, the said Shri Baldev Sharma, Head Hawaldar, Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur) has contravened the provisions of Rule 3(1)(ii) and 3 (1) (iii) of the Central Civil Services (Conduct) Rules, 1964.

3. Since the CO was not attending the office, a letter dated 18.01.2023 was sent to the Assistant Commissioner (Prev.), Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur) with request to arrange to deliver the Charge Memorandum dated 13.01.2023 to the CO at his available residential addresses. The Assistant Commissioner (Prev.), Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur) vide letter dated 13.02.2023 informed that Shri Suneel Kumar Sharma, Inspector was nominated to deliver the same, but Shri Baldev Sharma, Head Hawaldar was neither available at residence of Vidhyadhar Nagar nor at his permanent address i.e. Gram-Roni Jathan, Thana-Kherli, Tehsil-Kathumar, Distt-Alwar (as mentioned in his Service Book), therefore, the charge memorandum could not be delivered to him. The Assistant Commissioner (Prev.), Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur) returned the Charge Memorandum along with visit note. Further, a copy of the Charge Sheet was also pasted on the Notice Board of the Department and also sent to him on his e-mail addresses i.e. baldevbs.c050802@gov.in, baldevbs.g100801@gov.in and 59baldevsharma@gmail.com, as given in his official records. Thereafter, a release/memorandum was published in Rajasthan Patrika and Danik Bhaskar (all over Rajasthan) on 14.03.2023, mentioning therein:-

"That the Charge Memorandum dated 13.01.2023 has been issued to Shri Baldev Sharma and contacted him on his mobile numbers, available in his official records but could not be contacted. Thereafter, efforts have been made to deliver the said memorandum by this office on his present and permanent addresses, but due to non availability of Shri Baldev Sharma at said addresses, charge memorandum dated 13.01.2023 could not be served. Further, it was informed that the Charge Sheet has been pasted on the office's notice board and also sent him on his e-mail addresses as mentioned in his official records and further Shri Baldev Sharma was asked to submit his written statement in this office within 15 days from the date of publication of this release/memorandum."

Even, in response to above notice, Shri Baldev Sharma had neither appeared in the office nor submitted any reply/written submission.

3.1. Accordingly, Disciplinary Authority decided to initiate further proceeding under Rule 14 of CCS (CCA) Rules, 1965. Accordingly, the Disciplinary authority ordered detailed inquiry in the matter and appointed Inquiry Officer and Presenting Officer vide Orders dated 12.04.2023 to further inquire into the matter.

3.2. The Inquiry Officer conducted the detailed inquiry in the matter following the principal of natural justice & in terms of provisions of Rule 14 of the CCS(CCA) Rules, 1965. The IO submitted his Inquiry Report on 30.08.2023, wherein he found all the three charges as "proved" against Shri Baldev Sharma, Head Hawaldar.

3.3. The Inquiry Report submitted by the Inquiry officer was examined thoroughly and after careful examination of the Inquiry Report, the findings of the Inquiry Officer were found acceptable by the Disciplinary Authority. Accordingly, a copy of Inquiry Report dated 30.08.2023 was sent to CO vide letter dated 05.10.2023 at his present as well as permanent addresses and also on his e-mail addresses as mentioned in his official records to submit his written representation on the Inquiry Report, within 15 days of the receipt of the letter.

In response to above notice sent through emails, no written submission/representation has been received from Shri Baldev Sharma till date. The above said letters dated 05.10.2023 alongwith Inquiry report were returned back undelivered on 11.10.2023 from his present address with remark "पूछने पर बताया गया कि प्राप्तकर्ता यहाँ नहीं है. परिवार वाले लेने से इंकार" as well as from his permanent address on 13.10.2023 with remarks "पानेवाला बेपते बाहर रहता है, इसलिए वापिस" respectively.

Discussion and findings

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4. I have carefully gone through the Charge Sheet dated 13.01.2023, Inquiry Report dated 30.08.2023 and Notice dated 05.10.2023 alongwith supporting documents and facts of the case available on the record.

5. I find that in the Memorandum dated 13.01.2023, the following three charges were framed against the CO:

(1) He remained unauthorisedly absent from his duties from 07.03.2021 to 04.08.2021 (151 days), from 16.10.2022 to 06.11.2022 (20 days) and from 10.11.2022 to till date without information/prior permission/ sanction of leave by the competent authority.

(2) He failed to comply with the directions of his superior officers, in which it was asked to join duty and submit explanation for unauthorized absence.

(3) He did not show improvement in his past conduct of remaining absent unauthorisedly and failed to comply with the directions of superior officers.

Thus, the said Shri Baldev Sharma, Head Hawaldar, Customs (Preventive) Commissionerate, Jodhpur (Hq at Jaipur) has contravened the provisions of Rule 3(1) (ii) and 3 (1) (iii) of the Central Civil Services (Conduct) Rules, 1964.

5.1 Further, I find that since the CO had not responded to any communication and had not submitted his submission in defence. The Disciplinary Authority appointed IO to further inquire into the matter.

5.2 I also find that the IO after holding inquiry as per due procedure submitted his report, holding all the three charges as proved.

5.3 I also find that since the findings were acceptable to Disciplinary Authority, therefore, a copy of IO Report was sent to the CO through various means, but he preferred not to respond.

5.4 Now, I proceed further to discuss & analyze each Article of Charge in the light of allegation made in memorandum, findings of IO as well as documents available on records.

6. In the Inquiry Report, the IO has submitted that he has gone through the inquiry proceedings and observed that Shri Baldev Sharma, Head Hawaldar (CO) neither appeared nor submitted any reply in his defence and in these circumstances, he has to decide first that the inquiry may be consider fit for ex-parte inquiry or not.

6.1 On going through the inquiry proceedings as mentioned above, it is evident that the Inquiry Officer issued letters dated 20.04.2023, 01.05.2023, 16.05.2023, 02.06.2023 and 15.06.2023 to Shri Baldev Sharma, Head Hawaldar (CO) on his available all 3 addresses i.e. (i) Quarter No. D-7/46, Customs Colony, Vidhyadhar Nagar, Jaipur, (ii) Preventive Branch, Customs, Jaipur and (iii) Village – Roni Jathan, Thana – Kherli, Tehsil – Kathoomar, Distt. – Alwar. Out of these letters, some letters along-with

Charge Memorandum were received by his wife Smt. Radha Devi and also pasted on the house of the CO at Village – Roni Jathan and remaining were received back undelivered due to his non-availability on above addresses. However, the CO neither appeared in any hearing personally nor submitted any written submission / reply to the Inquiring Officer in his favour.

6.2. The PO Brief/ report in this matter has also been sent to Shri Baldev Sharma, Head Hawaldar (CO) by the IO on his available all 3 addresses i.e. (i) Quarter No. D-7/46, Customs Colony, Vidhyadhar Nagar, Jaipur, (ii) Preventive Branch, Customs, Jaipur and (iii) Village – Roni Jathan, Thana – Kherli, Tehsil – Kathoomar, Distt. – Alwar, but letter issued at their permanent address was returned back undelivered and the PO was also directed to deliver the PO Brief/ report to CO under proper acknowledgment accordingly the letter along-with PO's report / brief delivered to Smt Radha W/o Sh Baldev Sharma (CO) having Mob. No 7976845986 under acknowledgment on 03.08.2023 and also pasted on their permanent address under proper panchanama.

6.3. The IO has also gone through the provisions of Rule 14(20) of CCS (CCA) RULES, 1965 and provides that;-

(20) If the Government servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex parte.

6.4. Further, as per Para 18 of Chapter-3 of “Hand book of Inquiry Officers and Disciplinary Authorities-2013” published by INSTITUTE OF SECRETARIAT TRAINING AND MANAGEMENT, (DEPARTMENT OF PERSONNEL & TRAINING), MINISTRY OF PERSONNEL PUBLIC GRIEVANCES & PENSIONS:

18. There is considerable divergence of opinion on the subject regarding the applicability of the above provision in cases of inability of the disciplinary authority to serve charge sheet because the whereabouts of the delinquent are not known. It is felt that the provision being contrary to the principles of Natural Justice, it would be appropriate to resort to them sparingly. In cases of prolonged unauthorized absence of the delinquent, it would be appropriate to publish the charge sheet in the local news paper and/or the web site of the organization, paste it in the door of the residence of the delinquent and the notice board of the organization, send through registered post and have proof of all these things before proceeding ex-parte against the delinquent.

6.5. Further, The Chapter-20 of “Hand book of Inquiry Officers and Disciplinary Authorities-2013” provides the conditions under which ex-parte inquiry may be resorted and as per this chapter ex-parte inquiry can be resorted to only when the

following conditions are satisfied:

- (a) Articles of charge should have been delivered
- (b) The charged officer had failed to submit the written statement of defence on or before the specified date or
- (c) Does not appear in person before the Inquiring Authority or
- (d) Fails or refuses to comply with the provisions of the CCA Rules

6.6. The IO has submitted that the Additional Commissioner, Customs (Preventive) Commissionerate Jodhpur, Hqrs at Jaipur (disciplinary authority) vide his office letter 07.06.2023 informed about the procedure adopted by them regarding service of Charge Memorandum dated 13.01.2023 to the charged officer. On going through the said letter, IO has observed that the disciplinary authority first tried to serve the Charge Memorandum dated 13.01.2023 through his controlling officer i.e. the Assistant Commissioner (Prev.), Customs (Preventive) Commissionerate Jodhpur, Hqrs at Jaipur, but due to unauthorised absence of charged officer, it could not be served. Thereafter, the Assistant Commissioner (Prev.), Customs (Preventive) Commissionerate Jodhpur, Hqrs at Jaipur has nominated Shri Suneel Kumar Sharma, Inspector to deliver the same, but due to non availability of Shri Baldev Sharma, Head Hawaldar at his official residence at 7/46, Customs Colony, Vidhyadhar Nagar and his permanent address i.e. Gram-Roni Jathan, Thana-Kherli, Tehsil-Kathumar, Distt-Alwar (as mentioned in his Service Book), charge memorandum could not be delivered. Thereafter, the Assistant Commissioner (Prev.), Jaipur returned the Charge Memorandum along with visit note. Further, the Charge Sheet has been pasted on the office's notice board and also sent to CO on his e-mail addresses, as given in his official records. Thereafter, a release/memorandum dated 14.03.2023 was published in Rajasthan Patrika and Danik Bhaskar (all over Rajasthan) on 19.03.2023, under which Shri Baldev Sharma was asked to submit his written statement in this office within 15 days from the date of publication of this release/memorandum. Accordingly, in view of above facts, Charge Memorandum dated 13.01.2023 may be deemed delivered to the CO i.e. Shri Baldev Sharma, Head Hawaldar.

6.7. The Assistant Commissioner (Prev.), Customs (Preventive) Commissionerate Jodhpur, Hqrs at Jaipur vide letter dated 29.05.2023 had also informed that the copy of Charge Memorandum dated 13.01.2023 along with the letter dated 16.05.2023 issued by the IO to CO for appearing on 25.05.2023 in the proceedings of inquiry, were also delivered to Smt. Radha Devi W/o Shri Baldev Sharma under proper acknowledgement, at their official address "D-7/46, Customs Colony, Vidhyadhar Nagar, Jaipur" and also pasted at their permanent address "Gram-Roni Jathan, Thana-Kherli, Teh.- Kathoomar, Distt.- Alwar" under "Chaspa (चस्पा कार्यवाही)" and submitted the copy of Panchnama for this proceedings.

6.8. Further, as discussed in para 6.6 & 6.7 above, IO found that the disciplinary authority made sufficient attempt to deliver the Charge Memorandum dated 13.01.2023 to the charged officer, but due to unauthorized absence of charged officer from duty

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and non-availability of whereabouts, the Charge Memorandum dated 13.01.2023 has also been delivered to wife of CO. The Charge Memorandum dated 13.01.2023 has also been pasted on the Notice Board of office i.e. Office of the Commissioner, Customs (Preventive) Commissionerate Jodhpur, Hqrs at Jaipur and also sent on the e-mail addresses baldevbs.g100801@gov.in & 59baldevsharma@gmail.com . In this regard, a press release/ notice dated 14.03.2023 for the same was published in the news papers namely "Rajasthan Patrika & Dainik Bhaskar". In view of above, the IO held that the Charge Memorandum dated 13.01.2023 may be deemed to be delivered to the CO i.e. Shri Baldev Sharma, Head Hawaldar and the condition No. (a) of chapter 20 of "Hand book of Inquiry Officers and Disciplinary Authorities-2013" fulfill in this inquiry.

6.9. Further, the multiple opportunities has been granted to the charged officer to appear in the inquiry proceedings through letters dated 20.04.2023, 01.05.2023, 16.05.2023, 02.06.2023 and 15.06.2023 on his available all 3 addresses i.e. (i) Quarter No. D-7/46, Customs Colony, Vidhyadhar Nagar, Jaipur, (ii) Preventive Branch, Customs, Jaipur and (iii) Village – Roni Jathan, Thana – Kherli, Tehsil – Kathoomar, Distt. – Alwar. Out of these letters, some letters along-with enclosures were received by his wife Smt. Radha Devi and also pasted on the house of the CO at Village – Roni Jathan and remaining were received back undelivered due to his non-availability on above addresses. But, the CO neither appeared in any hearing personally nor submitted any written submission / reply to the Inquiring Officer in his defence. Therefore, the IO held that the charged officer had failed to submit the written statement of defence on or before the specified date and the condition No (b) & (c) of chapter 20 of "Hand book of Inquiry Officers and Disciplinary Authorities-2013" fulfill in this inquiry.

6.10. In view of above, the IO found that the sufficient time has been granted to charged officer to appear in proceedings by way of granting fair and reasonable hearings to follow the principal of natural justice, but the CO neither appeared in proceedings nor submitted any reply in his defence.

As discussed in para 6.9 & 6.10 above, the IO found that in these circumstances this inquiry is fit for ex-parte inquiry as per provisions of Rule 14(20) of CCS (CCA) RULES, 1965 and accordingly, he decided to initiate necessary action to complete the inquiry as ex-parte inquiry.

7. As per Article of Charge-1, the CO remained unauthorisedly absent from his duties from 07.03.2021 to 04.08.2021 (151 days), from 16.10.2022 to 06.11.2022 (20 days) and from 10.11.2022 to till date without information / prior permission / sanction of leave by the competent authority.

7.1. With regard to Article of Charge-1, the Inquiry Officer has mentioned as under:-

(i) that the provisions of Rule 14 & 25 of Central Civil Services (Leave) Rules, 1972 and as these Rules provides that:-

14. Application for leave

Any application for leave or for extension of leave shall be made in Form 1 to the authority competent to grant leave.

Provided that where a Government servant is unable to submit an application or medical certificate on account of a disability, such application or medical certificate may be signed and submitted by..

(a) the spouse of the Government servant; or

(b) the parents in case of an unmarried Government servant; or

(c) the child including adopted child or brother or sister of the Government servant, who has attained the age of majority; or

(d) any person who has been assigned limited guardianship of the Government servant in terms of Section 14 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016), and the same shall be deemed to have been made and submitted by the Government servant himself.

25. Absence after expiry of leave

(1) Unless the authority competent to grant leave extends the leave, a Government servant who remains absent after the end of leave is entitled to no leave salary for the period of such absence and that period shall be debited against his leave account as though it were half pay leave, to the extent such leave is due, the period in excess of such leave due being treated as extraordinary leave.

(2) Wilful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action.

(ii) that there is no defence witness mentioned in the charge memorandum and the CO has failed to appear in inquiry proceedings; from available documents, it is clear that the charged officer remained on leave without permission during 18.01.2021 to 19.02.2021 and after calling explanation dated 04.02.2021, the CO joined his duties on 22.02.2021 and submitted the application for sanction of leave for such period. The CO also undertook through his letter dated 22.02.2021 that he will not repeat such mistake in future. Accordingly, his leave for the said period was sanctioned by the Competent Authority.

(iii) that Shri Baldev Sharma, Head Havaladar, while posted at Preventive Branch, Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur), was assigned the Rifle Guard duty and failed to perform his duties from 07.03.2021 and remained absent unauthorisedly for the period from 07.03.2021 to 04.08.2021 (151 days) without information/prior permission/ sanction of leave by the competent authority. Sh. Baldev Sharma joined his duties on 05.08.2021 and thereafter in compliance of Establishment Order No. 13/2021 he was relieved on 10.08.2021 with direction of join his duties in the office of Assistant Commissioner, ICD Concor Khatuwas.

(iv) that the Superintendent, ICD Concor, Khatuwas vide his letter dated 31.05.2022 informed to the Assistant Commissioner (P&V), Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur), about the non submission of any leave application for the period from 07.03.2021 to 04.08.2021 (151 days) and thereafter

Memorandum dated 25.07.2022 was issued by the Additional Commissioner (P&V), Customs (Preventive) Commissionerate, Jodhpur (Hqrs. at Jaipur) to Sh. Baldev Sharma to explain the reasons and circumstances under which he remained unauthorised absent from office for the period from 07.03.2021 to 04.08.2021 (151 days).

In compliance of Memorandum dated 25.07.2022, Sh. Baldev Sharma vide letter dated 03.08.2022 submitted that due to family dispute, he could not attend the office during the relevant period and submitted Earned Leave application for this period.

(v) that in compliance of Establishment Order No. 25/2022 dated 19.09.2022 issued by the Assistant Commissioner (P&V), Customs Commissionerate, Jodhpur (Hq. at Jaipur), Shri Baldev Sharma, Head Hawaldar was relieved on 06.10.2022 from ICD Khatuwas with directions to report for duty to the Assistant Commissioner (Preventive Branch), Customs Commissionerate, Jodhpur (Hq. at Jaipur) and as per provisions of joining period, Shri Baldev Sharma was to join in Preventive Branch by 16.10.2022 after availing 10 days joining time, but Shri Baldev Sharma, Head Hawaldar, has submitted joining report in Preventive Branch on 07.11.2022 along with earned leave application for the period 16.10.2022 to 06.11.2022 (20 days).

(vi) that the Assistant Commissioner (Prev.), Customs Commissionerate, Jodhpur (Hq. at Jaipur) issued a letter dated 06.12.2022 to charge officer for calling explanation for his absence from duty from 10.11.2022 (After 12.00 noon) without any permission. The Assistant Commissioner (Prev.) again vide his letter dated 13.12.2022 directed to CO to attend the office and submit his explanation for absence from duty within 3 days from the receipt of such letter. Similarly, letters dated 26.12.2022 & 12.01.2023 were also issued to CO with direction to attend the office and submit his explanation for absence from duty within 3 days from the receipt of such letter.

7.2. that the Rule 25 (2) of CCS (leave) Rules 1972 clearly provides that willful absence from duty after the expiry of leave, renders a Government servant liable to disciplinary action. In this case, it is clear that the charged officer without any prior sanction of leave not attended the duties during 18.01.2021 to 19.02.2021, 07.03.2021 to 04.08.2021, 16.10.2022 to 06.11.2022 & from 10.11.2022 (After 12.00 noon) to till the date of issuance of charge memorandum dated 13.01.2023. However, the leave for the period from 18.01.2021 to 19.02.2021 has been sanctioned by the proper authority considering undertaking given by the CO not to repeat the same. I also find that the CO has submitted the leave application for the period 07.03.2021 to 04.08.2021 on 03.08.2022 and for the period 16.10.2022 to 06.11.2022 on 07.11.2022. In all the three cases, the CO submitted leave application after completion of his unauthorised absence period, even in case of absent for the period 07.03.2021 to 04.08.2021, the CO submit leave application after lapse of one year.

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7.3. that the Rule 7 (1) of CCS (leave) Rules 1972 clearly provides that Leave cannot be claimed as of right and accordingly Shri Baldev Sharma, Head Hawaldar, was required to get his leave recommended from his controlling officer before proceedings to leave. But Shri Baldev Sharma, Head Hawaldar, did not do so and not joined his duties even in spite of letters issued to him for joining the office by his controlling officer i.e. the Assistant Commissioner (Prev.) Customs Commissionerate, Jodhpur (Hq. at Jaipur) . These repeated acts of Sh. Baldev Sharma clearly show that he is a habitual absentee.

In view of findings of inquiry officer given in the inquiry report, I find that Shri Baldev Sharma, Head Hawaldar remained unauthorisedly absent from his duties from 07.03.2021 to 04.08.2021 (151 days), from 16.10.2022 to 06.11.2022 (20 days) and from 10.11.2022 to 13.01.2023 without information / prior permission / sanction of leave by the competent authority. Therefore, I hold that Charge no. (1) is 'proved' against the CO.

8. As regards Article of Charge-2, that he failed to comply with the directions of his superior officers, in which it was asked to join duty and submit explanation for unauthorized absence, the inquiry Officer has found that:-

(i) the Assistant Commissioner (Prev.), Customs (Preventive) Commissionerate Jodhpur, Hqrs at Jaipur, vide his letter dated 02.12.2022 directed CO to attend the office and submit his explanation for absence from duty within 3 days from the receipt of such letter. The Assistant Commissioner (Prev.), Customs (Preventive) Commissionerate Jodhpur, Hqrs at Jaipur again vide his letter dated 13.12.2022, directed to CO to attend the office and submit his explanation for absence from duty within 3 days from the receipt of such letter. Similarly, letters dated 26.12.2022 & 12.01.2023 were also issued to CO with directions to attend the office and submit his explanation for absence from duty within 3 days from the receipt of such letter. But, the charged officer neither joined his duty nor submitted his explanation.

In view of findings of inquiry officer given in the inquiry report, I find that Shri Baldev Sharma, Head Hawaldar, did not comply with the direction issued by his higher authority, which shows disobedience of directions. Therefore, I held that charges framed at Sl. no (2) in charge memorandum dated 13.01.2023 against the Charged Officer is 'proved'.

9. As regards Article of Charge-3, that he did not show improvement in his past conduct of remaining absent unauthorisedly and failed to comply with the directions of superior officers, the inquiry Officer has found that:-

(i) the charge regarding non-showing of improvement in his past conduct regarding unauthorised absent and failed to comply with the directions of superior officers. I find that the charged officer without any prior sanction of leave not attended the duties during 18.01.2021 to 19.02.2021, 07.03.2021 to 04.08.2021, 16.10.2022 to 06.11.2022

& from 10.11.2022 (After 12.00 noon) to till the date of issuance of charge memorandum dated 13.01.2023 These repeated acts of Sh. Baldev Sharma clearly show that he is a habitual to leave the office without any information & prior sanction of leave. The charged officer vide his letter dated 22.02.2021 & 03.08.2022 accepted his remaining on unauthorised absence from the duty and submitted the leave application for past periods with assurance not to repeat such mistake in future but thereafter, also he made similar mistakes repeatedly.

In view of findings of inquiry officer in the inquiry report, I find that Shri Baldev Sharma, Head Hawaldar did not show any improvement in his past conduct of remaining on unauthorised absence and also failed to comply with the directions of superior officers. Therefore, I hold that charge framed at Sl. no (3) in charge memorandum dated 13.01.2023 against the Charged Officer is 'proved'.

10. Further, before passing order, I also find that the Hon'ble Supreme Court, in its Judgement, passed in Civil Appeal No. 1941 of 2014, in case of Chennai Metropolitan Water Supply and Sewerage Board and others V/s T.T. Murali Babu, has observed that employees in any organization should adhere to discipline for not only achieving personal excellence but for collective good of an organization and upheld the decision to remove the government servant from service for unauthorized absent.

11. In this regard, I also observed that the provisions of Rule 3(1)(ii) and 3 (1) (iii) of the Central Civil Services (Conduct) Rules, 1964 provides that :-

3. General

(1) Every Government servant shall at all times--

(ii) maintain devotion to duty; and

(iii) do nothing which is unbecoming of a Government servant.

In view of above discussion and findings, I find that Shri Baldev Sharma, Head Hawaldar is habitual to leave the office without information / prior permission / sanction of leave by the competent authority; did not comply with the directions issued by his higher authority which shows disobedience of direction. Therefore, I hold that the CO did not show any improvement from his past conduct regarding unauthorised absence and also failed to comply with the directions of superior officers, which clearly shows that the CO contravened the provisions of Rule 3(1)(ii) and 3 (1) (iii) of the Central Civil Services (Conduct) Rules, 1964.

12. In view of above discussions and findings, Charge Nos. 1, 2 & 3, framed against the Charged Officer vide Memorandum dated 13.01.2023 stands proved and imposition of appropriate major penalty under Rule 11 of the CCS (CCA) Rules, 1965 is warranted in this case.

13. In view of the foregoing discussions & findings, I pass the following order:-

ORDER

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- (i) I impose upon **Shri Baldev Sharma, Head Hawaldar**, Central Excise & CGST Commissionerate, Jaipur, a penalty of removal from service under Rule 11(viii) of Central Civil Services (Classification, Control and Appeal), Rules, 1965 with immediate effect.
- (ii) I also order that the period of unauthorized absence from 07.03.2021 to 04.08.2021 (151 days), 16.10.2022 to 06.11.2022 (20 days) and from 10.11.2022 to 13.01.2023 should be treated as 'dies-non' for all purposes and salary & other allowances/ benefits (if any) paid for this period will be recovered from the said Shri Baldev Sharma, Head Hawaldar.

Signed by Rishi Yadav
Date: 29-11-2023 19:35:01
Reason: Approved

(Rishi Yadav)

Additional Commissioner (P & V) & Disciplinary Authority

Shri Baldev Sharma, Head Hawaldar,

(i) Quarter No. D-7/46, Customs Colony,
Vidhyadhar Nagar, Jaipur.

(ii) Village – Roni Jathan, Thana – Kherli,
Tehsil – Kathoomar, Distt. – Alwar.

Copy for information and necessary action to: -

1. The Chief Commissioner, CGST & Central Excise (JZ), Jaipur.
2. The Principal Commissioner, CGST Commissionerate, Jaipur.
3. The Pay and Accounts Officer, CGST & Customs, Jaipur.
4. The Administrative Officer (DDO), CGST Commissionerate, Jaipur.
- ✓ 5. The Superintendent (System), CGST Commissionerate, Jaipur for uploading on departmental website.
6. CCR dossier/Service Book.
7. Notice Board.

Additional Commissioner (P & V)