

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/735/2019

Date of Reserve:13.01.2020

Date of Order:14.02.2020

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Parikhit Kumar Buda, aged about 30 years,S/o.Surendra Kumar Buda, At/PO-Mangaspur, PS-Bhagma, Dist-Sundergarh, working as Postal Assistant, Bonaigarh Sub Office,At/PO-Banaigarh, Dist-Sundergarh.

...Applicant

By the Advocate(s)-M/s.S.K.Patra-1
S.Rath

-VERSUS-

Union of India represented through:

1. The Director General of Post, Dak Bhawan, New Delhi-110 001.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda-752 001.
3. Director, Postal Services (HQ), O/o. Chief PMG, Odisha Circle, Bhubaneswar, Dist-Khurda-751 001.
4. Superintendent of Post Offices, Rourkela Division, Rourkela, Dist-Sundergarh-769 011.

...Respondents

By the Advocate(s)-Mr.B.Swain
ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant while working as Postal Assistant Postal Assistant, Bonaigarh S.O. was placed under suspension in contemplation of disciplinary proceedings vide order dated 16.04.2019 (A/1). His grievance is directed against communication dated 26.08.2019 (A/2) whereby the Review Committee has recommended continuance of suspension for a further period of six months. In the above backdrop, the applicant has approached this Tribunal seeking for the following reliefs.

- i) The order dated 26.08.2019 under Annexure-A/2 and further extension of suspension period of the applicant be quashed after declaring those are illegal.
- ii) The Respondents be directed to reinstate the applicant w.e.f. 18.07.2019 with all consequential benefits with cost.
- iii) Pass any other order/orders as would be deemed just and proper.

2. It is the case of the applicant that he having been placed under suspension with effect from 16.04.2019, the said suspension ought to have been reviewed by the competent authority before 14.07.2019, i.e., before expiry of 90 days whereas, the Respondent No.4 vide order dated 26.08.2019 (A/2) extended the suspension for a period of 180 days. In sum and substance, it is the contention of the applicant that the competent authority should have reviewed the order of suspension either to modify or revoke before expiry of 90 days from the effective date of suspension, based on the recommendations of the Review Committee. In the instant case, no such order has been passed by the competent authority in consonance with sub-rule (6) of Rule-10 of CCS(CCA)Rules, 1965 and hence, by the operation of Rules, suspension order is deemed to be void on expiry of 90 days from the effective date of suspension.

3. Per contra, respondents have filed their short reply in which, it has been submitted that the suspension of the applicant has been reviewed by the Review Committee before expiry of 90 days, i.e., on 12.07.2019 and in this regard, they have produced the minutes of the Review Committee dated 12.07.2019 vide R/1. According to respondents, since the post of Director Postal Services, Sambalpur Region is lying vacant and the DPS(Hqrs.) Bhubaneswar is in charge of DPS, Sambalpur Region, the documents relating to the case were forwarded to DPS(Hqrs.), Bhubaneswar for review, who is the

chairman of the Committee. The minutes of the review of the suspension was received back by Respondent No.4 through PMG, Sambalpur Region on 01.08.2019. Thereafter, the same was sent to the applicant in his office address, i.e., Bonaigarh on 02.08.2019 vide letter No.F6-02/2018-19 dated 02.08.2019 by the Respondent No.4. But the same was received undelivered on 20.08.2019 as the addressee was not available. In the above backdrop, copy of the minutes of the review committee was sent to the applicant in his permanent address. According to respondents, the headquarters of the applicant being at Bonaigarh, he should not have left the headquarters without obtaining prior permission whereas the fact remains that the applicant was not residing at Bonaigarh for which letter dated 02.08.2019 returned undelivered.

4. We have heard the learned counsels for both the sides and perused the records. From the pleadings of the parties, the short point needs determination is whether continuation of suspension of the applicant beyond the period of 90 days is in accordance with the rules.

5. The applicant in support of his case has relied on the decision of Hon'ble High Court at Calcutta in W.P.C.T. 43 of 2010 (Sri Abanidra Mohanty vs. UOI) as well as the order of the Central Administrative Tribunal, Principal Bench in O.A.No.3137 of 2012 (Rita Vhora vs. UOI – disposed of on 19.10.2012).

6. Admittedly, the applicant vide order dated 16.04.2019 was placed under suspension with immediate effect. According to applicant, the competent authority did not review the order of suspension based on the recommendations made by the Review Committee either to modify or revoke the order of suspension. On the other hand, it is the contention of the respondents that the Review Committee on 12.7.2019 recommended

extension of suspension of the applicant, which is before the expiry of 90 days. However, it has been pointed out that the minutes of the review of the suspension were sent to the applicant in his office address, i.e., Bonaigarh on 02.08.2019 vide letter No.F6-02/2018-19 dated 02.08.2019 by the Respondent No.4 and the same was received undelivered on 20.08.2019 as the addressee/applicant was not available.

7. We have considered the rival submissions threadbare. What the Rules on the subject speak is of much significance. In this connection, it is to be noted that sub-rule (6) of the CCS(CCA) Rules, 1965, mandates that the order of suspension is required to be reviewed by the competent authority before expiry of 90 days from the effective date of suspension. The word "reviewed by the competent authority" – means the authority which has placed the Government employee under suspension. In the instant case, even though the Review Committee on 12.7.2019 had recommended extension of suspension for a further period of 180 days, but, the respondents have not produced any such document showing that the competent authority, i.e., the authority who has placed the applicant under suspension, has reviewed the order of suspension in pursuance of the recommendations made by the Review Committee and for the reasons to be recorded in writing, has passed orders extending the duration of suspension before expiry of 90 days from the effective date of suspension. This Tribunal does not come across any such order to have been passed by the competent authority and therefore, by the operation of Rules, the order of suspension having not been reviewed by the competent before the expiry of 90 days from the effective date of suspension, the order dated 16.04.2019 (A/1) is deemed to have spent its force on the expiry of 90 days. At this juncture, it is pertinent to mention that the

recommendations made by the Review Committee cannot be construed to mean review of the order of suspension by the competent authority. Thus, the point in issue is answered.

8. For the reasons discussed above, we quash Annexure-A/2 dated 26.8.2019. Consequently, the respondents are directed to reinstate the applicant in service forthwith. The applicant shall be entitled to pay and allowance minus Subsistence Allowance, if any, paid after expiry of the period of 90 days from the effective date of suspension. The treatment of the initial period of suspension upto 90 days shall be decided by the respondents in accordance with the rules on the subject.

9. In the result, the O.A. is allowed as above, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

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