

**Central Administrative Tribunal
Principal Bench**

OA No.3728/2014



New Delhi, this the 28th day of January, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)

Vishnu Swaroop,
Aged about 50 years,
S/o Shri Ram Chand Sharma,
Working as Postal Assistant,
In Sarojini Nagar, H.O., New Delhi.

...Applicant

(By Advocate : Shri T.N. Tripathi)

Versus

1. The Union of India,
Through Secretary,
Deptt. of Posts, Dak Bhawan,
New Delhi.
2. The Director Postal Services (P),
O/o S.P.M.G. Delhi Circle Meghdoot Bhawan,
New Delhi.
3. The Sr. Post Master,
Sarojini Nagar,
Head Post Office Sarojini Nagar,
New Delhi.

...Respondents

(By Advocate : Shri Manish Kumar)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant is employed as Postal Assistant in the Delhi Circle. An order dated 14.05.2013 was issued to him, alleging that he did not report to duty at Division office w.e.f. 23.03.2013, and remained absent till 10.04.2013 and that he is habitual in availing leaves, in anticipation of grant of sanction, and to explain why the period of absence from 11.02.2013 to 20.02.2013 and 23.03.2013 to 13.04.2013 be not treated as '*Dies Non*'. It is also stated that the applicant was being prevented from reporting to duty and that several amounts payable to him were not released to him. This OA is filed challenging the order dated 14.05.2013, and for a direction to the respondents to take him to duty immediately. He has also prayed for a direction to pay him the arrears of salary from the date of dismissal from 20.01.2010 to 01.10.2012.

2. The applicant contends that the Post Master working at Sarojini Nagar is inimical towards him and within a span of one month, he was transferred to as

many as five places. It is further pleaded that the order directing the period to be treated as a '*Dies Non*' cannot be sustained in law.



3. The respondents filed a detailed counter affidavit running into 18 pages. It is stated that the applicant is a habitual absentee and in the year 2005 when he was transferred from Sarojini Nagar to Haus Khas Post Office, he refused to join and that led to initiation of disciplinary proceedings and thereafter dismissal from service. It is stated that the Appellate Authority modified the order, by treating the period of absence as '*Dies Non*' and despite that, the applicant remained absent for quite a large number of days. It is also stated that the applicant was transferred to the R.K. Puram Post Office through order dated 02.07.2013, but he did not join the duty at R.K. Puram. Various acts and omissions on the part of the applicant are also stated in detail.

4. We heard Shri T.N. Tripathi, learned counsel for applicant and Shri Manish Kumar, learned counsel for respondents.



5. The first challenge in the OA is to the order dated 14.05.2013. Through the said order, two spells of service were treated as 'Dies Non'. The first spell is between 11.02.2013 and 20.02.2013 and the second spell is from 20.03.2013 to 13.04.2013. The applicant is not able to state the basis for his remaining absent. Further, the instances of absence for those spells are not isolated ones. The record discloses that the applicant did not obey the order of transfer, though it was from one place to another, within Delhi Circle only. Despite the fact that he was removed from service on account of his persisting disobedience and the subsequent modification of the punishment, the applicant remained absent. Therefore, we do not find any basis to interfere with the order dated 14.05.2013.

6. The second grievance of the applicant is about not being permitted to discharge duties. Till 01.07.2013, he was attached to the Post Office at Sarojini Nagar. Thereafter, he was transferred to the Post Office at R.K. Puram. It is not the case of the applicant that he has reported to duty at R.K. Puram. His representations and the pleadings in the OA are indicative of the fact that he wanted to remain at Sarojini Nagar Post Office. Once he is

transferred from that place, he cannot continue in that Post Office. He did not even challenge the order of transfer. Despite a lapse of six years, the applicant did not make any serious effort to join the office at R.K. Puram.



7. We do not find any merit in the OA and the same is, accordingly, dismissed. We, however, direct that the respondents shall not take any punitive steps against the applicant, without following the procedure, prescribed under the law.

There shall be no orders as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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