

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1446/96

New Delhi this the 29th day of March 2000

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member (A)

Smt. Yamuna Devi
Wid/o late Shri Vijay Kumar
R/o Village & P.O. Nanu Kalan,
Distt. Gurgaon (Haryana)

...Applicant

-Versus-

1. Union of India through
The Director,
Department of Posts, India,
(Ministry of Communication)
Dak Bhawan, Sansad Marg,
New Delhi.
2. The Chief Postmaster General,
Haryana Circle, Ambala (Haryana).
3. Sr. Supdt. of Post Officers,
Gurgaon Division,
Gurgaon (Haryana)

...Respondents

(Shri V.K. Raizada, APO's
departmental representative)

ORDER (Oral)

By Mr. Justice Ashok Agarwal, Chairman

By the present OA original applicant
impugns an order passed on 2.6.96 at Annexure A-1
whereby his representation for being paid full pay
and allowances during the period of suspension
w.e.f. 10.2.83 to 17.5.92 has been rejected.
Original applicant claims direction to the
respondents to pay him full pay and allowances
during the aforesaid period.

JK
2. Original applicant has died pending
the OA and his heir and legal representative has
been brought on record.

3. Original applicant Shri Vijay Kumar was employed as Postal Assistant, Haily Mandi Post Office Gurgaon division. Disciplinary proceedings had been initiated against him for unlawful absence from duty w.e.f. 10.5.82 without permission. Enquiry Officer by his report dated 20.1.83 held the aforesaid charge proved. The Disciplinary Authority accepted the findings of the Enquiry officer and imposed a penalty of removal from service vide his order dated 9.2.83.

4. It is enough to mention that the Appellate Authority by an order passed on 31.3.95 has reduced the penalty ~~of~~ reduction of pay by one stage from Rs. 1270/- to Rs. 1240/- in the time scale of pay for a period of six months w.e.f. 1.6.94 without future effect and treating the period from 10.5.82 to 9.2.83 as 'dies non' for all purposes and original applicant was ^{held} entitled for payment of pay and allowances for the period from 10.2.83 to 17.5.92 as admissible under FR 54(7). The aforesaid penalty is one of the minor penalties under Rule-11 (iii) (a). Applicant made a representation claiming payment of full pay and allowances for the aforesaid period from 10.2.83 to 17.5.92. The same, by an order passed on 2.6.96, has been rejected. A copy of the order of representation is to be found at Annexure A-1. The said order is impugned in the present OA.

NB

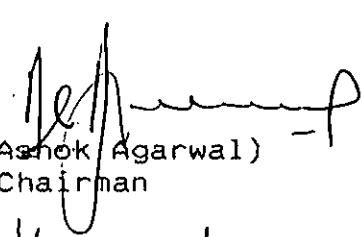
5. Aforesaid order of 2.6.96 is a non-speaking order. No reasons are assigned in rejecting the claim made by the applicant. Applicant has placed reliance on OM No. 11012/15/85-Esstt (A) D/3.12.1985 which has been issued by the Department of Personnel & Training on the above subject which *inter alia* provides as under:-

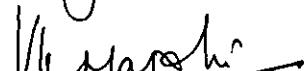
"The staff side of the Committee of the National Council set up to review the CCS (CC&A) Rules, 1965 had suggested that in cases where a government servant against whom an inquiry has been held for the imposition of a major penalty, is finally awarded only a minor penalty, the suspension should be considered unjustified and full pay and allowances paid for suspension period. Government have accepted this suggestion of the staff side. Accordingly, where departmental proceedings against a suspended employee for the imposition of a major penalty, finally ends with the imposition of a minor penalty, the suspension can be said to be wholly unjustified in terms of FR (54-B). The orders will become effective from the date of issue. Past cases already decided need not be reopened."

6. In our judgment the claim of the applicant is covered by the aforesaid OM of the DOPT dated 3.12.1985. The disciplinary ~~was~~ proceedings conducted against the applicant for ~~the~~ imposition of a major penalty, a major penalty was infact imposed upon the applicant. The same has now been reduced to ^a minor penalty. Under the aforesaid OM applicant will be entitled to be paid full pay and allowances for the aforesaid period.

Ne. J

7. Present case is covered by a decision of this Tribunal in the case of Shri Mela Ram Vs. Union of India & others OA No. 736/1987 decided on 30.5.89. Placing reliance on the aforesaid OM, applicant therein has been awarded full pay and allowances during the period of suspension on the ground that, in disciplinary proceedings for imposition of major penalty, a minor penalty was ultimately awarded against him. Present case is covered by the aforesaid decision. A copy of the same is to be found at Annexure A-12. Having regard to the aforesated OM and the aforesated decision, we have no hesitation in holding that the applicant is entitled to be paid full pay and allowances for a period 10.2.1983 to 17.5.1992 as claimed. Present OA is accordingly allowed in the aforesated terms. The present applicant being ~~the~~ widow of the original applicant and ~~should have~~ been brought on record as his heir and legal representative should be paid the monetary benefits which the original applicant is held to be entitled under the present order within a period of three months from the date of receipt of a copy of this order. This payment may be made in accordance with rules such as the requirement of execution of indemnity bond etc. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majptra)
Member (A)