

19

Central Administrative Tribunal

Principal Bench

O.A. 298/97

with

O.A. 666/97

New Delhi this the 18th day of August, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hon'ble Shri S.A.T. Rizvi, Member(A).

K.N. Dixit,
S/o late Shri R.D. Dixit, Ex-APM,
R/o A8-9, Sector-18, Rohini,
New Delhi-85.

... Applicant.

(By Advocate Shri S.C. Saxena)

Versus

Union of India through

1. The Secretary,
Department of Post India,
Ministry of Communication,
Govt. of India, DAK Bhawan,
Sansad Marg, New Delhi-110001.
2. The Post Master General,
Dehradun Region,
Near Clock Tower,
Dehradun-248001.
3. The Senior Superintendent of
Post Offices,
Dehradun Division, 20 Rajpur Road,
Dehradun-248001.

... Respondents,

(By Advocate Shri K.C.D. Gangwani, Sr. Counsel)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has filed two applications, namely, O.A.298/97 and O.A.666/97 on 29.1.1997 and 19.3.1997 respectively. In both these applications, the applicant has dealt with the facts relating to the disciplinary action taken against him by the respondents under Rule 14 of the CCS (CCA) Rules, 1965 (hereinafter referred to as 'the Rules'), in which penalties have been imposed on him by order dated 30.6.1990 (Annexure-I in OA 298/97) against

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which appeal was also dismissed by the appellate authority by order dated 17.7.1992 (Annexure-VI in OA 666/97).

2. The applicant has also filed MA 765/97 praying for condonation of delay. However, in OA 666/97, relying on the letter dated 27.2.1996 issued by the respondents regarding treatment of the period when the applicant was under suspension, Shri S.C. Saxena, learned counsel has contended that there is no question of any bar of limitation in this case. However, he was not able to explain as to why the applicant has only challenged the disciplinary authority's order dated 30.6.1990 in OA 298/97 when admittedly the appellate authority had also issued the order dated 17.7.1992, which was well within the knowledge of the applicant when he filed OA 298/97 in January, 1997.

3. The main relief prayed for in OA 298/97 is that the disciplinary authority's order dated 30.6.1990 and the order dated 10.5.1994 should be withdrawn as not maintainable, in view of the grounds taken in the O.A. and the applicant should be given full pay and allowances instead of only subsistence allowance as ordered by the respondents. In OA 666/97, the main claims of the applicant are that the penalty order which has been issued by the respondents should be treated as if it is a minor penalty order under Rule 11 of the Rules so that he could get the benefit of FR 54B and instructions issued under that Rule. He has also submitted that the suspension of the applicant was unjustified and, therefore, should be quashed and this period should be treated as if spent on

18/

duty with consequential benefits.

4. Shri S.C. Saxena, learned counsel for the applicant has also given written submissions which have been perused.

5. The respondents have controverted the averments made by the applicant in both the cases. Shri K.C.D. Gangwani, learned Sr. counsel has submitted that the reliefs claimed by the applicant are totally barred by limitation in the aforesaid O.A.s. He has also submitted that the penalty imposed on the applicant in 1990, which has also been implemented was a major penalty, which was imposed after holding an inquiry under the Rules. The competent authority had also passed the order that the period of suspension of the applicant cannot be treated as on duty. He has submitted that taking into account the gravity of the charges against the applicant, the punishment awarded to the applicant was not at all severe. Learned counsel has also taken a preliminary objection that the application is not maintainable in the Principal Bench of the Tribunal. He has submitted that the applicant does not ordinarily reside in Delhi after his retirement, as the applicant himself has given his address in the pension particulars as PPO-39, Sewak Ashram Road, Dehradun and Disbursing Authority as Sr. PM, Dehradun.

6. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

7. Regarding the preliminary objection taken by the learned counsel for the respondents on the question of territorial jurisdiction of this Bench to hear the cases,

we note the submission made on behalf of the applicant during hearing that after his retirement he is living in Delhi with his son at the address shown in the Memo of Parties. Having regard to these facts and the provisions of Rule 6(2) of the Central Administrative Tribunals (Procedure) Rules, 1987, the objection is rejected.

8: In O.A.298/97 the applicant's main challenge is to the penalty order dated 30.6.1990. During the course of hearing, Shri S.C. Saxena, learned counsel, did not explain what is the order dated 10.5.1994 mentioned in para 8 of the O.A. In the facts and circumstances of the case, the application is hopelessly barred by limitation. Besides, we find that the impugned penalty order has been passed after holding a departmental inquiry in accordance with the rules where the applicant has been afforded a reasonable opportunity of hearing. Therefore, none of the grounds taken in the O.A. also warrants any interference in the matter.

9. In O.A.666/97, the applicant has filed a Miscellaneous Application for condonation of delay. As mentioned above, the appeal filed by the applicant has been disposed of by the respondents on 17.7.1992, in which a lenient view has been taken to reduce the punishment to reduction of pay from Rs.1660/- to Rs.1150/- for a period of three years without postponing his future increment. One of the reasons referred to by the appellate authority in doing so was that the disciplinary proceedings have been inordinately delayed although the charges were held as proved. The applicant's contentions are that in the circumstances, the penalty should be treated as a minor

13

penalty under Rule 11 of the Rules, his period of suspension from 7.5.1968 to 13.10.1986 should be treated as duty with full pay and allowances by setting aside the earlier order passed in 1991 and other consequential benefits. These claims have been rejected by the respondents' order dated 27.2.1996 which is self explanatory. During the hearing, Shri S.C. Saxena, learned counsel for the applicant was not able to show from any relevant law, rules or documents that the claims are sustainable and contrary to the stand taken by the respondents. Therefore, in the facts and circumstances of the case, there appears to be no good grounds justifying any interference in the matter in both the cases filed by the applicant.

10. In the result, for the reasons given above, O.A. 298/97 and O.A. 666/97 fail and are accordingly dismissed. No order as to costs.

11. Let a copy of this order be placed in O.A. 666/97.

2
(S.A.T. Rizvi)
Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

"SRD"

Attested

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18/8/2000
C.O. C.IV.