

(B)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

Q.A. No. 746 of 1994.

New Delhi, this the 24th day of October, 1994.

HON'BLE MR B.N.DHOUNDIYAL, MEMBER (A)

Shri Suresh Chander Sharma,  
Extra Departmental Branch Postmaster Kanwi  
B.O. in Mahindergarh District under Gurgaon Postal  
Division, R/O Vill. & P.O. Kanwi District  
Mahindergarh,

... . . . . Applicant.  
(through Mr Sant Lal, Advocate).

vs.

1. The Union of India, through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Director Postal Services, Haryana Circle, Ambala Cantt.
3. The Senior Superintendent of Post Offices, Gurgaon Division, Gurgaon-122001.  
(through Mr M.M. Sidhu, Advocate).

... . . . . Respondents.

ORDER (ORAL)  
(delivered by Hon'ble Mr B.N.Dhoudiyal, Member (A))

In this Q.A., the applicant has challenged the memo. dated 20.2.1992, issued by the Director, Postal Services, Ambala Cantt to the extent that it is ordered that for the period the applicant remained off duty, no pay and allowances will be paid. The applicant claims pay and allowances for the period from 5.3.1990 that is from the date on which he was put off duty to 14.9.1992 that is the date when he was re-instated in service. Though the disciplinary authority had awarded him a penalty of dismissal from service vide memo. dated 17.7.1991, the appellate authority allowed his appeal but denied him wages for the period he remained off duty. The applicant has been working as <sup>BW</sup> Departmental Branch Post master.

Rule 9 of the Extra-Departmental Delivery Agent Rules, 1964 reads as under:

"9. Put off duty(1) Pending an enquiry into any complaint or allegation of misconduct against an employee, the appointing authority or an authority to which the appointing authority is subordinate may put him off duty.."

The validity of this Rule and whether such a rule would be a bar for granting back wages by this Tribunal has been considered by the Full Bench of this Tribunal in Surendra Nath Bera vs. Union of India and others (1994)27 Administrative Tribunals Cases(FB)456.

While considering this case, the Full Bench took into account the cases decided by various benches of this Tribunal in favour of the applicants. The Full Bench reached a conclusion that an employee who is put off duty under Rule 9 of the Rules is not entitled to any allowance for the period during which he is kept off duty under the said rules. They also up-held the validity of this rule on the ground that the extra departmental agents are part-time employees entitled to engage themselves in other employment during free hours. When such an employee is put off duty, he is entitled to take up any other full-time employment for the entire day. He is not subject to the restrictions such as not to leave the place of posting without the permission of the competent authority. As the employee is kept off duty, he is rendered free to engage himself in other employment and to earn his livelihood.

2. The Full Bench however noted that this issue is under consideration of the Hon'ble Supreme Court in Appeal Nos.4917 to 4927 of 1990 in Peter J.D'sa v. Superintendent of Post Offices, Udupi. They, therefore,

took into consideration the possibility that orders favourable to the applicant may be passed by the Hon'ble Supreme Court in the above appeals. We have no doubt that the respondents shall review the case of the applicant also in that eventuality.

3. In view of the Full Bench judgment no relief can be granted to the applicant except that mentioned in para 2 above. The O.A. is disposed of with these observations.
4. There will be no order as to costs.

*B.N. Dhangal*  
( B.N.Dhangal )  
Member(A)

/sds/