

Central Administrative Tribunal
Principal Bench

O.A. No. 2286 of 2000

New Delhi, dated this the 10 - October, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Suresh Chander Sharma,
S/o Shri Mangal Ram,
EDBPM, Khaleta,
R/o Vill. Khaleta,
Tehsil Rewari District,
Mahendragarh,
Haryana. Applicant

(By Advocate: Shri Sant Lal)

Versus

1. Union of India through
the Secretary,
Ministry of Communications,
Dept. of Posts,
Dak Bhawan, New Delhi-110001.
2. The Director, Postal Services,
Haryana Circle, Ambala Cantt. 133001.
3. The Chief Postmaster General,
Haryana Circle,
Ambala Cantt-133001. Respondents

(By Advocate: Shri K.R. Sachdeva)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' orders dated 17.2.2000 (Ann. A-1) and dated 14.9.2000 (Ann. A-2). He prays that the period he was put off duty till he was reinstated i.e., from 17.1.89 to 7.4.94 be treated on period spent on duty for all purposes with full pay and allowances, and other consequential benefits, including interest and costs.

2. Applicant an EDBPM was put off duty under Rule 9 ED Agents (Conduct and Service) Rules, 1964 w.e.f. 17.1.89. Even prior to that date an inquiry

(A)

was instituted against him under Rule 8 of aforementioned Rules and he was dismissed from service by the disciplinary authority's order dated 7.8.89. Applicant filed an appeal, but as the same was not disposed of he filed O.A. No. 1373/90. That O.A. was disposed of with a direction to the appellate authority to dispose of the appeal, upon which the appellate authority by order dated 19.1.94 allowed the appeal and ordered applicant's reinstatement. Consequently applicant was reinstated in service w.e.f. 8.4.89.

3. As respondents did not treat the intervening period between 17.1.89 to 7.4.94 as period spent on duty, he was not granted pay and allowances for the aforesaid period. He represented to respondents from time to time and upon getting no reply filed O.A. No. 1259/95 which was disposed of by order dated 7.10.99 to give applicant an appropriate reply in the light of rulings of the Hon'ble Supreme Court and Government instructions on the subject within two months from the date of receipt of a copy of the order.

4. Pursuant to the aforesaid directions, respondents have issued impugned order dated 17.2.2000, which is assailed in the present O.A.

5. In the impugned order dated 17.2.2001, reference has been made to Dept. of Posts order dated 13.1.97 (Ann. A-7) issued in the background of the Apex Court's decision dated 10.7.95 in SLP (C) No. 5646/90 (CC47) Secretary, Ministry of Communication Vs. V.S. Gundu Acharya. In that order dated 13.1.97 it is provided that in the event an ED Agent is exonerated, he shall be paid full admissible allowances for the period of put off duty and can be denied to him only after affording him an opportunity and by giving cogent reasons. As the aforesaid order dated 13.1.97 was to come into effect from the date of its issue, and as in the present case the relevant period is 17.1.89 to 7.4.94 which is prior to 13.1.97, respondents by impugned order dated 17.2.2000 have denied applicant pay and allowances for the aforesaid period.

6. In very similar circumstances the CAT, Mumbai Bench in its order dated 18.4.2001 in O.A. No. 741/96 Smt. Sharada Gajanan Damankar Vs. Superintendent Regional Stamp Depot, Bombay held that applicant entitled to pay and allowances for the period 22.3.93 to 1.5.95. Nothing has been shown to us to establish that the aforesaid order dated 18.4.2001 has been stayed, modified or set aside. In our view the ratio of that order dated 18.4.2001 (supra) is squarely applicable to the facts and circumstances of the present case.

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✓ 7. In the result the O.A. succeeds and is allowed to the extent that respondents are directed to release to applicant his full pay and allowances for the period 17.1.89 to 7.4.94 within three months from the date of receipt of a copy of this order. In addition, respondents will pay to applicant interest @ 10% per annum on the total sum payable on account of aforesaid pay and allowances from 1.10.2000 i.e. the month in which this O.A. was filed till the date of actual payment. No costs.



(Dr. A. Vedavalli)
Member (J)



(S.R. Adige)
Vice Chairman (A)

Karthik