

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH
AT HYDERABAD

OA/020/00395/2020



HYDERABAD, this the 7th day of July, 2020

THE HON'BLE MR.ASHISH KALIA : JUDICIAL MEMBER

THE HON'BLE MR.B.V.SUDHAKAR : ADMINISTRATIVE MEMBER

Smt.S.Zahidunnisa W/o Late S.Kalam,
Age about 57 years, Asst. Post Master (Accounts),
(Under Suspension), Kurnool Head Post Office,
R/o H.No.46-89-1A, Upstairs, AR Residence,
Budhawarpeta, KURNOOL – 518 002.

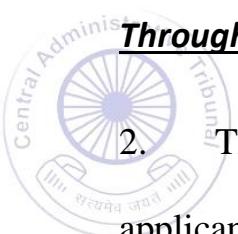
(By Advocate : Mr.M Venkanna)

...Applicant

Vs.

1. Union of India represented by
Secretary, Department of Posts – India,
Ministry of Communication & IT,
Dak Sadan, Sansad Marg, New Delhi – 110001.
2. The Chief Postmaster General,
AP Circle, Vijayawada 520013.
3. The Director of Postal Services,
Kurnool Region, KURNOOL – 518 002.
4. The Superintendent of Post Offices,
Nandyal Division, Nandyal – 518502.

(By Advocate : Mr.A.Praveen Kumar Yadav, Addl. CGSC)Respondents

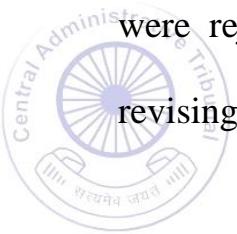
Oral Order**(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)****Through Video Conferencing**

2. The OA is filed in regard to indefinite continuation of suspension of the applicant vide Memo dt. 13.4.2020, which was upheld by the competent authorities.

3. Brief facts of the case are that the applicant joined the respondents organisation as Postal Assistant in 1982 and has rendered more than 37 years of service. She was suspended on 24.1.2019 and the same is continued without valid reasons and the subsistence allowance has not been enhanced as per rules. Appeal and revision petition filed against the suspension have been dismissed. Aggrieved the OA has been filed.

4. The contentions of the applicant are that the continued suspension of the applicant is against DOPT rulings on the subject. Applicant claims that the continuation of suspension was not reasoned out by the respondents and hence, is violative of the observation of the ***Hon'ble Supreme Court in Ajay Kumar Choudary v Union of India in CA No.1912/2015***. Applicant committed mistakes in signing bills as Asst. Post Master (Accounts) which is not grave as to continue the suspension. Suspension of the applicant was not by the competent authority. Disciplinary action has to be completed in 6 months but

the respondents are prolonging the same which goes against a series of judgment of the Hon'ble Apex Court on the matter. Appeal and revision petition were rejected without application of mind. FR 53 (1) was not followed in revising subsistence allowance.



5. Heard both the counsel and perused the pleadings on record.

6. I. Applicant while working as Asst. Post Master (Accounts) at Nandyal Head Post Office was suspended on 24.1.2019 by the 4th respondent for signing certain bills. She has rendered around 37 years of service as on the date of her suspension. Respondents have reviewed and continued the suspension. Appeal and review petition filed were dismissed. Charge Memo was issued on 20.4.2019 under Rule 14 of CCS (CCA) Rules within 90 days of suspension and the proceedings are under process. The contention of the applicant is that since she has been promoted to Higher Selection Grade by the Director of Postal Services (DPS) and hence, the DPS is the appointing authority. Therefore, the suspension of the applicant ordered by the 4th respondent i.e. Supdt. of Post offices (SPOs) is irregular. Appellate authority and revision authority while disposing the appeal and review petition respectively have responded by stating that as per Schedule I-A of the Postal Manual, SPOs can impose penalties from (i) to (iv) in respect of Higher Selection Grade official under Rule 11 of CCS (CCA) Rules and hence, SPOs,

being the disciplinary authority, is the competent authority to suspend the applicant.



II. In regard to continued suspension of employees, Hon'ble Apex Court in ***State of Tamil Nadu Rep. by Secretary to Govt (Home) vs Promod Kumar, IPS & Anr., on 21 August, 2018, Civil Appeal Ns.8427-8428 of 2018***, (Arising out of S.L.P. (Civil) No.12112-12113 of 2017) has observed as under:

“23. This Court in [Ajay Kumar Choudhary v. Union of India](#), (2015) 7 SCC 291 has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.”

In the instant case, the applicant was suspended for subsidiary offence. She has credited the amount to the Govt. accounts directed to be credited by the respondents. Charge Sheet under Rule 14 has been issued on 20.4.2019 and the disciplinary inquiry is on. It cannot, therefore, be said that there is scope for meddling with records and influencing witnesses. On the contrary, respondents are paying subsistence allowance without extracting any work for more than 1½ years from the date of suspension.

Considering the above circumstances, the appropriate decision would have been to revoke the suspension and post the applicant in a non-sensitive

post in any office from where the applicant will have little scope to meddle with records or influence witnesses and even prohibit her from contacting any person or handle records till her defence is submitted. It would in effect curtail unnecessary expenditure on subsistence allowance paid without any contribution to the organisation on the work front. Ld. Counsel for the applicant submitted that the applicant has been transferred out of Nandyal Division. We are, therefore, of the view that the continued suspension will serve no purpose in the circumstances stated above as per the legal principle laid by the Hon'ble Apex Court in the case cited supra.

III. Hence, we direct the respondents consider revoking the suspension of the applicant issued vide Memo dated 24.1.2019, within a period of 8 weeks from the date of receipt of this order and finalise the disciplinary action initiated against the applicant, as per rules and in accordance with law.

IV. With the above direction the OA is disposed of. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

VI/evr