

**O CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**



OA/350/414/2020

Date of Order: 09.09.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri Avijit Ghosh,
Son of Shri Basudeb Ghosh,
Aged about 48 years,
GDSBPM, Bikihakola B.O. in a/c with Pachla S.O.
Under Howrah Division, District Howrah,
Presently under put off duty,
Residing at Vill. & P.O. Bikihakola
Via - Panchla,
Dist. Howrah, Pin – 711322.

..... Applicant:

-Versus-



1. Union of India,
Service through the Secretary,
Ministry of Communication &
Information Technology,
New New Delhi -110001.
2. The Chief Post Master General,
West Bengal Circle,
Yogayog Bhavan, Chittaranjan Avenue,
Kolkata – 700012.
3. The Post Master General,
South Bengal Region,
Yogayog Bhavan, Chittaranjan Avenue,
Kolkata – 700012.
4. The Sr. Superintendent of Post Offices,
Howrah Division,
Howrah – 711101.
5. Inspector of Posts,
Howrah 2nd Sub Division, Fortgloster,
Howrah – 711310.

6. The Sr. Post Master,
Howrah Head Post Office,
Howrah – 711101.

.....Respondents.

For the Applicant(s): Mr. P.C. Das, Counsel
Mr. J.R. Das, Counsel
Ms. T. Maity, Counsel

For the Respondent(s): Mr. S. Paul, Counsel

ORDER (ORAL)

Per Ms. Bidisha Banerjee, Member (J):

Heard Id. Counsel for both the parties.

2. This application has been filed by the applicant seeking the following reliefs:



"8.i) An order directing the respondents to cancel, rescind, withdraw or set aside the purported speaking order being dated 25.02.2020 without due application of mind and also being in contradiction of Hon'ble Apex Court guidelines;

ii) An order directing the respondent to cancel, rescind withdraw or set aside the purported order of suspension being dated 19.09.2019 and 25.09.2019 since been imposed without due application of mind and continuing against due process of law vis-a-vis Hon'ble Apex Court guidelines either;

iii) An order directing the respondents to produce entire records of the case with copy to the Id. Advocate appearing for the applicant for conscionable justice.

iv) Any other order or orders further order/orders as to this Hon'ble Tribunal may seem fit and proper."

3. Ld. Counsel for applicant vehemently opposes the extension of the applicant under put off duty without enhancement of the allowances. Ld. Counsel submits that the allegation against the applicant is of misuses to the tune of Rs. 3 lakh and odds whereas department has already recovered a sum of over Rs. 1 crore.

4. Ld. Counsel for respondents would submit that the applicant has voluntarily credited such amount and that the inquiry is under way.

5. Ld. Counsel for applicant at that juncture placed the following provision to contend that put off duty cannot exceed 45 days. The provision reads as under:

"3. It is also necessary that the disciplinary authority makes every effort to finalize the disciplinary proceedings and pass final orders so that an EDA does not remain on put-off duty for a period exceeding 45 days and not 120 days as ordered previously. The Divisional Superintendent should draw up a time-table for ensuring finalization of disciplinary cases within this period. If, due to unavoidable reasons, it is not possible to finalize a case within this period, the matter should be reported immediately to the next superior authority giving full justification why the EDA cannot be taken back to duty pending finalization of the case. The superior authority should on receipt of the report immediately review the case and consider –

- (i) whether there is justification to continue the EDA concerned off duty for a further period; and*
- (ii) what steps should be taken by the disciplinary authority to eliminate all avoidable delay in finalizing the case.*

The superior authority will then make an order accordingly.

4. Cases of put-off duty ordered by an authority lower than the Appointing Authority must be brought to the notice of the Appointing Authority who should confirm or rescind the order within a period of 15 days of its receipt failing which, the orders putting off duty the EDA should be deemed to have been revoked ipso facto. The Directors / Regional PMsG / Chief MPsG should personally review cases of put-off duty of all EDAs during inspection and issue proper orders in each case. In cases where the authority to confirm / rescind the order is the DPS, a review should be carried out every month by the Regional PMG / Chief PMG. Cases of put-off duty pending for 45 days or more should be brought to the personal notice of CPMG / PMG / Regional PMG who should issue proper directions in this regard.



5. *Instructions on the subject should be strictly followed to dispose of all the disciplinary cases.*

[D.G. Posts, Lr. No. 294/90-(E) I Trg., dated the 26th July, 1990.]"

Ld. Counsel for applicant alleges that the respondents have not disclosed the reasons for recovery of a huge sum of Rs. 1 crore onwards.

6. We considered the rival contentions.

7. In view of fact that the applicant is still on put off duty and it is imperative for the department to finalise the matter as expeditiously as possible without keeping the disciplinary proceedings beyond 45 days, we direct the authorities to conclude the proceedings as early as possible adhering to the time limit scrupulously or setting it extended legally, and in accordance with law, but not beyond 6 months under any circumstances.



8. It is made clear that we have not entered into the merits of the proceedings.

9. We note that vide letter dated 12.08.2020, the applicant had preferred an appeal to the respondent authorities seeking enhancement of put off duty allowances to the extent of 50% for the period beyond 90 days, which is pending for consideration.

Therefore, we direct the authority to take a decision in regard to enhancement of put off duty allowances, in a time bound manner.

10. Ld. Counsel for applicant seeks liberty to challenge the disciplinary proceedings initiated vide charge sheet dated 20.07.2020 which liberty is always available.

Accordingly, this OA stands disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member(J)

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