

Central Administrative Tribunal
Principal Bench, Delhi

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O.A. No. 1791/91

Date: 18.5.1992.

Sh
Radhey Shyam

...Petitioner

Shri Sant Lal

...Counsel for the
petitioner

Versus

Union of India & Others

...Respondents

Shri K.C. Mittal

...Counsel for the
respondents

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

JUDGMENT(ORAL)

The petitioner was justified in coming to this Tribunal for relief complaining that the authorities were not justified in postponing xx consideration of the question of the petitioner's crossing the Efficiency Bar as and when it became due on the ground that they would first work out the punishment imposed upon him and then consider the same. This was an erroneous attitude which they took and therefore, the petitioner has come to this Tribunal. The steps taken by the respondents are clear from the copy of the communication dated 24-4-92 from the Assistant Director Postal Service, Delhi Circle, New Delhi to the Senior Superintendent of Post Offices, New Delhi Central Division, New Delhi where it is stated

as follows :

"In this connection, I am directed to communicate you that the Director Postal Services (P) having gone through the basic facts of the case and having applied his mind to all its complexities and deep thought to the points raised by Shri Radhey Shyam in his appeal and has ordered that:-

The competent authority should have first decided about the crossing of efficiency bar by considering the overall records of service of the official. The implementation of the penalty was to be decided thereafter. If Shri Radhey Shyam was found fit his pay should have been fixed at Rs.308/- w.e.f. 1-4-81. Thereafter the next increment withheld and pay fixed at Rs.316/- w.e.f. 1-4-84. If he was not found fit then his case should be reviewed on every subsequent anniversary of the original due date until he is found fit to cross the efficiency bar. Competent authority should consider the totality of the record upto 1-4-81 while deciding Shri Radhey Shyam's fitness to cross EB. The fact that a punishment was imposed in the recent past should not be the sole basis for deciding on his suitability to cross the EB.

As regards the second penalty of withholding of one increment for one year without cumulative effect, the correct course would be that on expiry of the earlier penalty Shri Radhey Shyam should be allowed to draw his due increment and thereafter the increment should be withhold for one year.

The third issue requiring a decision is regarding the fixation of pay w.e.f. 1-1-86 i.e. the date the orders of the fourth Pay Commission have to be given effect to. The pay of Shri Radhey Shyam on 1-1-86 would depend on the decision regarding fitness or otherwise as discussed above. Be that as it may it would suffice to say that his pay on 31-12-85 withheld scale would determine the pay to be fixed on 1-1-86 (with new pay scale)."

2. Thus, it is clear that the authorities have not decided the question of crossing of Efficiency Bar by the petitioner as and when it became due. However, Shri Sant Lal, learned counsel for the petitioner, is right in submitting that the decision should be taken with utmost expedition. Having regard to the circumstances, it is necessary to direct the completion of the process within a stipulated period.

3. For the reasons stated above and in view of the respondents' letter dated 24-4-92, I dispose of this petition with a direction that the respondents shall record a decision within one month from the date of receipt of this judgment in the light of their order dated 24-4-92 and communicate the same forthwith. In case the petitioner is not satisfied with the action taken by the respondents, he has liberty to question the same in appropriate proceedings. No costs.

A copy of this order be sent to the respondents forthwith.



(V.S. Malimath)
Chairman

pkk.