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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2897/2004

New Delhi, this the 23rd day of August, 2006

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)
Hon'ble Mr. V.K. Agnihotri, Member (A)

Amod Kumar Chaturvedi
S/o Shri Daya Shankar Chaturvedi
G.D.S. Branch Postmaster (Putoff duty)
Postoffice Chhachha Distt-Mainpuri (U.P.)

...Applicant.

(By Advocate: Sh. D.P. Sharma)

VERSUS

1. Union of India
through Secretary
Ministry of Communication and I.T.,
Department of Posts
Dak Bhawan-Sansad Marg
New Delhi-110001.

2. The Postmaster General
Agra Region-Agra.

3. The Superintendent Postoffices
Mainpuri Division-Mainpuri.

..Respondents.

(By Advocate: Sh. S.M. Arif.)

ORDER (Oral)

Hon'ble Justice Sh. M.A. Khan, Vice Chairman (J) :

Applicant who is Gramin Dak Sewak under Branch-Postmaster Chhachha Distt.-Mainpuri, was put off duty by Memo Dated 23.09.2003 in contemplation of disciplinary proceedings to be initiated against him and was relieved of his duty on 13.10.2003. He was allowed ex gratia payment/compensation equal to 25% of his usual TRCA with admissible dearness allowance. He has filed the present OA challenging the order dated 23.09.2003 by which he was put of duty. He has requested that the said order

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be quashed and set aside and he should be reinstated in service with all consequential benefits.

2. At the time of hearing, learned counsel for the applicant has made two submissions. Firstly, the applicant was granted 25% usual TRCA and other allowances purportedly in terms of rule 12 of GDS (Conduct and Employment) Rules 2001 but said ex gratia/compensation has not been revised as per rules. He has invited our attention to sub rule (3) of Rule 12 of the aforesaid rules which has produced as under:

"(3) A Sevak shall be entitled per month for the period of put-off duty to an amount of compensation as ex-gratia payment equal to 25% of his/her Time Related Continuity Allowance together with admissible Dearness Allowance:

Provided that where the period of put-off duty exceeds 90 days, the Appointing Authority or the authority to which the Appointing Authority or any other authority empowered in this behalf, as the case may be, who made the order of put-off duty shall be competent to vary the amount of compensation for any period subsequent to the period of first 90 days as follows:

- (i) The amount of compensation as ex gratia payment may be increased by a suitable amount, not exceeding 50% of such compensation admissible during the period of the first 90 days if in the opinion of the said authority the period of put off duty has been prolonged, for reasons to be recorded in writing not directly attributable to the Sevak.
- (ii) The amount of compensation as ex gratia payment may be reduced by a suitable amount not exceeding 50% of such compensation admissible during the first 90 days, if in the opinion of the said authority, the period of put-off duty has been prolonged due to reasons to be recorded in writing directly attributable to the Sevak.

NOTE 1. - The rate of Dearness Allowance will be based on the increased or decreased amount of compensation admissible under sub-clauses (i) and (ii) above.

NOTE 2. - The payment of compensation for the put-off duty period shall not be subject to furnishing of a certificate that the Sevak is not engaged in any other employment, business, profession or vocation."

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3. He has, therefore, submitted that the competent departmental authority should consider the enhancement of the ex gratia payment to the applicant in accordance with the rules and instructions in the matter immediately.

4. His second submission is that the disciplinary proceedings which were started way back in 2003 are still at the stage of recording of the evidence of departmental witnesses although about 3 years have been elapsed. He has requested that the present O.A may be disposed of with the direction to the respondents to complete the enquiry and pass the final order in the disciplinary proceedings in accordance with the law within the time framed fixed by the Tribunal.

5. He has also drawn our attention to the guidelines of GOI Instruction (3) below Rule 12 of GDS (Conduct and Employment) Rules 2001 which has been filed as Annexure A-4 and which states that the disciplinary authority will make every effort to finalize the disciplinary proceedings and pass the final order so that EDA does not remain put of duty for a period of exceeding 45 days and in case it is not possible to finalize the case within the said period, the matter should be reported immediately to the next superior authority giving full justification why the EDA cannot be taken on to the duty pending finalization of the case and the superior authority on receipt of the report, shall review the said case considering whether there is justification to continue EDA concerned of duty for further period and steps should also be taken by the disciplinary authority to eliminate the avoidable delay in finalizing the case. It is submitted that in the present case, though the disciplinary proceedings were initiated in the year 2003, they are still at the stage of recording of evidence of the departmental witnesses.

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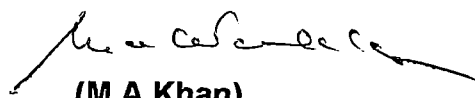
6. Learned counsel for the respondents though submitted that this was not the relief claimed by the applicant in the OA but does not oppose the submission that a direction may be given to the department to complete the disciplinary enquiry and pass the final order within the time fixed by the Tribunal.

7. Having regard to the facts of the case and the submissions made before us by the parties, we are inclined to agree with the submissions of the learned counsel for the applicant and dispose of the present O.A. with the following directions:

- (i) the respondents shall complete the disciplinary proceedings against the applicant and pass the final order in it and communicate it to the applicant within a period of six months from the date on which the copy of the order is received provided the delay is not attributable on the part of the applicant. We make it clear that no further time will be accorded to the respondents in this regard.
- (ii) The respondents shall consider the revision of the ex gratia payment/compensation which is to be granted to the applicant during the period the applicant remained of duty in accordance with the Rules 12(3) of GDS (Conduct and Employment) Rules 2001. This order will be implemented within a period of two months from the date on which copy of the order is received by the competent authority.

8. O.A. stands disposed above in above terms, leaving the parties to bear their own costs.


(V.K. Agnihotri)
Member (A)


(M.A.Khan)
Vice Chairman (J)

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