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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.456/2004

New Delhi this the 28th day of May, 2004

Hon'ble Shri Sarweshwar Jha, Member (A)

Shri Syam Sunder Son of
Shri Patram, Retired Mailman
under New Delhi Sorting Division,
New Delhi-110001
and Delhi Postal Circle R/O WZ 405,
Nangal Raya, New Delhi-46

..Applicant

(By Advocate Shri Sant Lal)

VERSUS

The Director Postal Services (R),
O/O the Chief Postmaster General,
Delhi Circle, Meghdoot Bhawan,
New Delhi.

..Respondent

(By Advocate Shri R.N.Singh proxy
counsel for Shri R.V.Sinha)


O R D E R (ORAL)

Heard.

2. This application has been filed against the Memo. No.B-36/3-3/99. dated 9.5.2003 issued by the Senior Superintendent, New Delhi Sorting Division, whereafter the applicant had filed an appeal on 18.6.2003 which is still pending with the appellate authority.

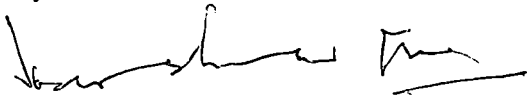
3. The facts of the matter, briefly, are that the applicant had remained absent from duty w.e.f. 18.5.1994 for the reasons as stated in Para 4 of his original application. The respondents initiated disciplinary action against him, treating his absence from 18.5.1994 to 16.1.1999 as unauthorised, under Rule

14 of the CCS (CCA) Rules, 1965 vide their Memo. dated 16.1.1999. After having completed the necessary process of enquiry and followed the procedure of giving an opportunity to the applicant as prescribed under the relevant rules to defend himself, the disciplinary authority imposed the penalty of compulsory retirement vide his Memo. dated 30.10.2001. The applicant submitted an appeal against the said order of the disciplinary authority on 26.12.2001, but the same was rejected by the appellate authority vide his order dated 11.4.2002. Thereafter the applicant filed his revision petition to the revisional authority on 26.6.2002 which was not responded to by the said authority for about 8 years which led to filing of an earlier OA 325/2003. In the meantime, the revisional authority, while setting aside the order of the disciplinary authority, treated the period from 18.5.1994 to 18.5.2001 as dies non and directed the disciplinary authority to deal with the period from 18.5.1994 to 18.8.2001 as per the rules on the subject. However, the penalty of compulsory retirement was upheld by him. The applicant thereafter submitted an appeal on 18.6.2003, a copy of which is placed at Ann.A.2 to the OA and Ann.R-14/A to the counter reply filed by the respondents. On perusal of the appeal, it is observed that this has been filed against both the impugned orders in respect of dies-non period from 17.1.99 to 17.2.2000 in which he has submitted that the prescribed procedure has not been followed and also the principles of natural justice have not been complied with before issuing the said impugned



orders. It has also been mentioned by the learned counsel for the applicant that no opportunity of personal hearing was given to him before the said orders were issued. He has also explained the details of his absence in para 7 of the appeal and has submitted that the relevant rules not provide for treating the absence as dies non. On this question, he has made a reference to the decision of the Chandigarh Bench of this Tribunal in Ramji Das Vs. UOI & Ors (1986(2) ATR 45) and also that of Madras Bench of the Tribunal in Para 10 of his appeal. He has submitted that the disciplinary authority has not considered the instructions of the DG P&T as issued vide his letter dated 26.11.1979. There is also a reference in his appeal to the case of Bihari Lal then SPM Fazilka (Pb) Vs. UOI (OA 121/PB/87) decided on 11.5.1987 to support his contention that the said period should be treated as leave due and admissible and not as dies non. It is observed that there is no mention in this appeal about the penalty of compulsory retirement imposed on the applicant which has been clarified by the learned counsel for the applicant that consciously no mention has been made in respect of this aspect of the matter. Subsequently, the respondents also have mentioned that the said matter has become final and settled.

4. While the learned counsel for the respondents has submitted that all aspects as submitted by the applicant in the OA have been attended to, it is



observed that they have not referred to whether the appeal which had been filed by the applicant on 18.6.2003 has been given due consideration and disposed of by them. The limited prayer which has been made by the learned counsel for the applicant at this stage is that the respondents should be directed to consider the said appeal and dispose it of. In his opinion statutory appeal should have been disposed of within 1 and 1/2 months or in any case within six months of the said appeal having been filed.

5. On careful examination of the matter it is observed that the appeal which was made by the applicant on 18.6.2003 in which he has requested the authority to consider his submission with regard to treatment of his absence period as dealt with in the impugned order of the respondents as leave of the kind due and not as dies non. He is still awaiting the decision of the authority, i.e., the Director Postal Services (R), Delhi Circle on the subject. His limited prayer, therefore, is that necessary direction be given to the authority concerned to consider his appeal expeditiously and dispose it of by issuing a speaking and reasoned order.


6. Having regard to the facts and circumstances of the case and limited prayer made by the applicant I am inclined to dispose of this OA with a direction to the respondents to dispose of his appeal dated 18.6.2003

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as expeditiously as possible and in any case within three months from the date of receipt of a copy of this order.

7. With this, the OA stands disposed of.


(Sarveshwar Jha)
Member (A)

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