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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

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Original Application No. 1353 of 2005

Wednesday, this the 15<sup>th</sup> day of November, 2006

Hon'ble Mr. Justice Khem Karan, Vice Chairman  
Hon'ble Mr. M. Jayaraman, Member (A)

Mahesh Chandra Verma, aged about 44 years, Son of Ram Saran Lal, Postman, Head Post Office-Rampur.

Applicant

By Advocate Shri Amrendra Kr. Srivastava

Versus

1. Union of India through its Secretary, Ministry of Communication, Dak Bhawan, New Delhi.
2. Director, Postal Service, Bareilly Region, Bareilly.
3. The Senior Superintendent of Post Offices, Moradabad Division, Moradabad.

Respondents

By Advocate Shri S. Srivastava

ORDER

Justice Khem Karan, Vice Chairman

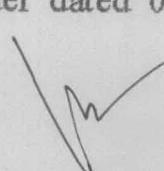
The applicant is challenging the Order dated 09.10.2002 (annexure-1) by which his Appeal against the punishment of removal was disposed of, substituting ~~the removal~~ <sup>the</sup> by reduction of pay scale by one stage for one year, without cumulative effect and against the Order dated 13.11.2002 (annexure-2) by which Senior Superintendent of Post Offices, Moradabad Division issued a notice proposing to make a deduction of 50% from the pay and allowances payable for the suspension period and for not treating the suspension period as on duty for any purpose. It has also prayed that the respondents be commanded to pay full pay and allowances for the period of suspension.

2. It appears from perusal of the Original Application that after formal disciplinary proceedings, the authority concerned passed an Order

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dated 12.12.1994 imposing punishment of removal from service and Appeal preferred by the applicant was dismissed vide Order dated 30.05.1997, against which the applicant filed O.A. No.1183/97, which this Tribunal finally disposed of vide Order dated 06.05.2002 (copy of order is annexure-3). A copy of this Order of the Tribunal reveals that the Tribunal was not impressed by the manner in which Appeal was disposed of so, quashed the Appellate Order, directing the Appellate Authority to decide the Appeal afresh in accordance with law within a period of 3 months from the date a certified copy of the Order was filed before it. The impugned order dated 09.10.2002 (annexure-1) is the appellate order passed after the above order of the Tribunal. The authority has passed a detailed order considering each and every aspect of the matter and has modified the Order of punishment as mentioned above. After these Orders, Senior Superintendent of Post Offices, Moradabad Division has issued show cause notice (annexure-2) as regards the treatment of suspension period and pay etc. of that period. The applicant has filed this O.A. without waiting for the result of that show cause notice dated 13.11.2002. It has come in the reply that in absence of any representation of the applicant, the authority concerned has passed suitable order on 24.02.2003 as proposed in show cause notice dated 13.11.2002. Copy of such order has, however, not been annexed to the reply.

3. Shri Amrendra Kumar Srivastava appearing for the applicant has not been able to satisfy us as to how the Appellate Order dated 09.10.2002 can be said to be bad in law. The Appellate Authority has applied its mind and has given reasons for coming to one conclusion or the other. We are not concerned as to whether his conclusions are correct or incorrect. In so far as the factual position is concerned, we are not sitting in Appeal over the same. In fact the Appellate Authority has given maximum benefit to the applicant by setting aside the Order of removal. So, the O.A. against this Order dated 09.10.2002 does not appear to be well founded.

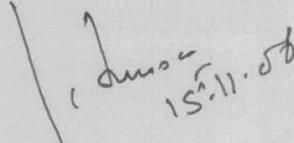


4. In so far as the Order dated 13.11.2002 (annexure-2) is concerned, Shri A.K. Srivastava has submitted that after orders of this Tribunal and after modification of punishment as mentioned above, there is no justification for deducting 50% pay and allowances otherwise admissible for the period of suspension and for not treating the said period of suspension as on duty for all purposes. We think that this is a simple notice and not an Order and so we think we will not be justified in entering into controversy as to whether the suspension period can be treated as on duty for all purposes. The applicant if he so likes may assail the Order that might have been passed, as stated in paragraph no.14 of the reply. We are not in a position to judge the correctness or otherwise of that Order as that is not the subject matter of these proceedings.

5. So, this O.A. does not appear to be well founded and is dismissed but with a direction to the respondent to supply the copy of the Order dated 24.02.2003 to the applicant within a period of 15 days from the date a certified copy of this order is produced before them. In case, the applicant is aggrieved by that order, he may seek appropriate remedy, as may be permissible in law. No order as to costs.



Member (A)

  
15/11/03

Vice Chairman

/M.M./