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Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 789 of 1987.

Baboo Ram Verma Applicant.

Versus

The Director General Posts, New
Delhi and others Respondents.

Hon'ble Justice K. Nath, V.C.(J),
Hon'ble K.J. Raman, A.M.

(By Hon. K. Nath, V.C.)

This application, under Section 19 of the Administrative Tribunals Act, 1985, is for issue of a direction to the respondents to treat the applicant as quasi-permanent Postman as on 20.2.1957.

2. In this case affidavits have been exchanged and the learned counsel for the parties have argued the case on merits. We, therefore, proceed to decide the case on merits at ~~the~~ admission stage.

3. The applicant was appointed as Postman on 20.2.1951 and ultimately retired on 30.6.1989 as Sub-Post Master; in the meantime he filed this application on 27.8.1987.

4. Rule 3 of the Central Civil Services (Temporary Service) Rules, 1965 contemplates that a Government servant shall be deemed to be in quasi-permanent service, if he satisfies two conditions:-

"(i) if he has been in continuous temporary service for more than three years; and

(ii) if the appointing authority, being satisfied having regard to the quality of his work, conduct and character as to his suitability for employment in a quasi-permanent capacity under the Government of India, has made a declaration to that effect."

The applicant has stated to be quasi-permanent with effect from 20.2.1957, mainly on the ground that he had put in more than three years' service, however, the authorities did not grant him the

requisite declaration.

5. The case of the applicant, in brief, is that the declaration had been refused because of adverse entries dated 26.2.1957 and 6.6.1957 in the Character Roll during the relevant time. He, however, says that on subsequent representation those adverse entries had been expunged by order dated 9.12.1957 (Annexure '1') and, therefore, he ought to have been declared to be quasi-permanent.

6. According to the applicant, he applied on 13.5.1958 for quasi-permanency, but the Inspector of Post Offices informed him on 7.8.1959 that he was not being made quasi-permanent on the basis of punishment of censor. Copy of the order has not been filed to indicate the true basis of the rejection order. However, he claims to have made a representation on 5.9.1959. Annexure '3' to the application is the letter dated 14.11.1959, communicating the order of the Superintendent of Post Offices, Farrukhabad, (who, admittedly, was the applicant's appointing authority) rejecting his representation dated 5.9.1959 for being declared to be quasi-permanent. Annexure '2' is the applicant's appeal dated 30.11.1959 addressed to the Director of Postal Services, Lucknow against Annexure '3'. According to the applicant, despite several reminders by him, his appeal (Annexure '2') was never decided in respect of which the last reminder was sent by him on 27.2.1987 (Annexure '4'). However, he says that in the meantime the Post Master General informed him by letter dated 23.6.1965 that his representation had been sent to the Superintendent of Post Offices for fresh disposal.

7. The respondents have pointed out that the order dated 9.12.1957 (Annexure '1') is not an order of expunction of adverse entries dated 26.2.1957 and 6.6.1957, but is an order quashing the termination of the applicant on charge-sheet for mis-conduct. The punishment order was set aside by Annexure '1', but that did not affect the adverse entries in question. It was added that when his Character Roll was cleared subsequently, he was appointed as L.R. Postman on probation for one year with effect from 15.6.1960 and ultimately confirmed on expiry of the probation. There was no question, therefore, for making him quasi-permanent till 1960.

8. The case of the respondents further, in para 17 of the counter affidavit, is that by a letter dated 7.5.1966, the Superintendent of Post Offices, Fatehgarh, had informed the applicant, under intimation to the Post Master General, that his request for grant of quasi-permanent status from a back date and consequent refixation of seniority, could not be acceded to. This must have been the disposal of the representation for which the Post Master General had sent information to the applicant, as mentioned above. It is added that the applicant made a representation against the decision of the Superintendent of Post Offices by letter dated 13.8.1966. It is further said that the Post Master General, to whom the applicant represented against the order of the Superintendent of Post Offices, had intimated that he did not see any reason to interfere in the matter. Reference is also made to letter dated 13.1.1972 of the Director of Postal Services, communicated to the applicant by letter dated 17.1.1972 of the Superintendent of Post Offices,

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Fatehgarh, that he saw no reason to interfere. According to the respondents, the order dated 13.1.1972 is the last one on the subject, and that the applicant is not entitled to be heard by this Tribunal in this application, which was filed 15½ years later, i.e. on 27.8.1987. There is no specific denial of these averments in the applicant's rejoinder affidavit.

9. The applicant, however, has filed letters dated 19.2.1982, 22.1.1983 and 4.8.1983 (Annexures 'RA-3', 'RA-2' and 'RA-1' respectively) of the Superintendent of Post Offices, Farrukhabad, mentioning that the applicant's appeal dated 13.2.1982 had been forwarded to the Post Master General, that the applicant had sent large number of reminders to the Post Master General, and that he should better await the results. It was then that the applicant sent the last reminder (Annexure '4') on 27.2.1987 and claims a right to file this application on 27.8.1987.

10. It will be noticed that the adverse entries dated 26.2.1957 and 6.6.1957 remained unaffected by the order dated 9.12.1957 (Annexure '1'); that as early as 7.8.1959, the applicant had been informed that he was not being made quasi-permanent; that his representation dated 5.9.1959, for declaration as quasi-permanent, was rejected and communicated to him on 14.11.1959; and that it should have been only sometime later that his Character Roll may have been cleared when he was appointed as L.R. Postman on probation of one year with effect from 15.6.1960. There is worth, therefore, in the defence case that there was no question of declaring the applicant to be quasi-permanent with effect from 20.2.1957. It is clear that the final orders in the matter had been

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passed on 13.1.1972 by the Director of Postal Services.

It is not shown by the learned counsel for the applicant that after those orders had been passed, the applicant was also entitled to further appeal to the Post Master General. The applicant's contention is that refusal to grant certificate under Rule 3 of the Central Civil Services (Temporary Service) Rules is stigmatic and, therefore, punishment, and consequently appealable under the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

11. We are unable to agree with the contention. An order under Rule 3 of the Central Civil Services (Temporary Service) Rules, 1965 has nothing to do with discipline and punishment proceedings under CCS(CC&A) Rules, 1965, following an act of indiscipline and misconduct. It concerns the question of examining the suitability of a person to a particular status. Refusal to accept a claim for suitability does not constitute punishment and, therefore, the provisions of CCS (CC&A) Rules, 1965 cannot be invoked to raise a right of appeal. The ^wmaintainability of an application beyond the ordinary period of limitation on the ground of making appeals or representation would depend upon the fact whether or not the appeal or representation is a statutory right or, having been entertained, has been decided on merits. Since in this case it is not shown that there was any such right after disposal of the matter by the Director of Postal Services in January, 1972, we do not think that the filing of the appeal and its pendency, as reported in Annexures 'RA-1' to 'RA-3', would bring any benefit to the applicant in the matter of delay in filing the application. Further, the last acknowledgement

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of reminder is dated 4.8.1983 (Annexure 'RA-1'). It is more than three years, even after that acknowledgement, that the last reminder (Annexure '4') was sent by the applicant.

12. On a careful consideration of the matters we are satisfied that the applicant's claim regarding quasi-permanency had been rejected as far back as 1972 and has become final; the application has no force. It is accordingly dismissed. Parties shall bear their own costs.

AMAN

MEMBER (A).

DR

VICE-CHAIRMAN.

Dated: August 7, 1989.

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