

THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Original Application No. 1653 of 1992.

Munna Singh

... Applicant

Versus

Union of India & others.

... Respondents.

HON'BLE MR. MAHARAJ DIN - MEMBER(J)
HON'BLE MISS USHA SEN - MEMBER(A)

(By Hon'ble Miss Usha Sen-A.M.)

The counsel for the parties were heard.

The facts of the case are briefly stated as under:

The applicant was "put off duty" vide a memo dated

22-8-91 while working as Extra Departmental Branch Post Master on a charge of loss of an insured cover for Rs.9000/- after the respondents had conducted ^{having conducted} preliminary enquiries into the loss of the article. A charge-sheet was issued to him on 30-11-92 and the disciplinary proceedings are under process. The matter of continuing him under "put off duty" is ^{stated} stopped to have been reviewed by the respondents from time to time (refer para 6 of the Counter Reply) and it has been found necessary to continue him as such.

The applicant has stated that the order of "put off duty" should be revoked because in terms of the instructions of the Director General (Posts) the period of "put off duty" should be limited to 120 days. He has further prayed that he should be paid subsistence allowance for the period of "put off duty" as per the decision of the Bangalore Bench of the C.A.T. (Annexure A-10). He has also asked to be paid his salary for the duty period from 01-08-91 to 27-08-91, bonus for the year 1990 and arrears of salary with effect from 01-01-88 to 27-08-91.

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The respondents produced the relevant instructions of the Director General (Posts) which show that if the period of "put of duty" is to extend beyond 45 days the disciplinary authority should report the case to the next superior authority who should review the case and consider whether there is justification

concerned to continue the E.D.A. concerned off duty for a further period and what steps should be taken to eliminate all delay in finalising the case. The authority should then make an order accordingly. The respondents have affirmed that the case has been reviewed from time to time and it has been found necessary to continue the applicant off duty. As regards payment of his dues as mentioned above they have stated that as the applicant is liable for the monetary loss of Rs.9000/- as per the charge sheet ^{> and hence} ~~but that~~ the dues would be released only on finalisation of the disciplinary proceedings if no financial liability is fixed upon the applicant.

Lastly, the respondents have stated that in accordance with the departmental rules an E.D.A. is not entitled to any allowance during the period he is put off duty. They have stated that this rule still holds good and has not been amended despite the judgment of the Bangalore Bench of the C.A.T. referred to by the applicant. In fact the respondents showed D.G.P. & T letter No. 151/7/77-Disc. II dated 23-3-1978 which states that the question of payment of subsistence allowance to E.D. Agents was "examined in all its aspects in the light of the Supreme Court judgment, dated 22-4-1977 and in consultation with the Ministry of Law. The service conditions of the EDAs are regulated by the EDA(Conduct and Service) Rules 1964. Rule-9 of these rules provides that pending an

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enquiry into any complaint or allegation of misconduct, an ED Agent may be put off duty and that during the period he is put off duty he shall not be entitled to any allowance. It has been held by the Ministry of Law that this rule has not been affected by the judgment of the Supreme Court. Rule-9 still remains and this being special law in respect of ED Agents it would prevail over the general provisions of Fundamental Rules. That being the legal position and having regard to the fact that EDAs being part-time employees, cannot be equated with regular employees of the Department in the matter of grant of service benefits, the Government have decided that the present practice of putting them off duty without allowance should continue. No allowance would, therefore, be payable to the ED Agents for the period any enquiry is pending against them and they remain put off duty."

In the light of the provisions of the rules and law as brought out above, we are unable to grant the reliefs sought by the applicant. However, we deem it fit to direct the Post Master General, Allahabad Region, respondent no.3, to personally look into this case and take necessary steps to finalise the disciplinary proceedings within a period of three months from the date of communication of this order. With this direction the application is disposed of. There will be no order as to costs.

Usha Devi
MEMBER (A)

Arvind
MEMBER (J)

Dated: 16/03/94 Allahabad.

(IS PS)
