

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 28th day of July, 2000.

CORAM: Hon'ble Mr. S. Dayal, Member (A)

Hon'ble Mr. Rafiq Uddin, Member (J)

ORIGINAL APPLICATION NO. 1757 of 1992.

Luddur Ram son of Bideshi Ram, resident  
of village and Post Office Barhad,  
District Azamgarh.

(Ex.-E.D.M.P., Branch Post Office, Udiyawan)

...Applicant.

C/A Shri R.P. Singh, Adv.

Versus

1. Union of India through the District  
General Manager Posts, New Delhi.
2. Chief Postmaster General, U.P., Lucknow.
3. Director Postal Services, Gorakhpur  
Region, Gorakhpur.
4. Sr. Superintendent Post Offices, Azamgarh.
5. Sub Divisional Inspector Lalganj,  
Azamgarh.

...Respondents.

C/R Km. Sadhna Srivastava, Adv.

O R D E R

(By Hon'ble Mr. S. Dayal, Member (A) )

This application has been filed for setting aside impugned orders dated 04.11.1992 and 17.12.1990 alongwith orders dated 30.03.1988 and 05.07.1988. Further prayer has been made that the applicant should be held entitled from the date of suspension on 04.09.1986 till the date of reinstatement to be declared as period treated <sup>to have been</sup> spent on duty and shall be given back wages and other consequential benefits.

2. The case of the applicant is that he was working as Extra Departmental Mail Peon w.e.f. 23.07.1963 in Branch Post Office Udiyawan, District Azamgarh. He fell ill on 28.02.1986 and applied for medical leave as he remained sick till 26.08.1986. His medical leave from 01.03.1986 to 31.05.1986 had been sanctioned. He went to the Branch Post Office on 26.08.1986 and continued going there till 30.08.1986 but he was not given charge of the post. He was put off from duty on 04.09.1986 and proceedings under Rule 8 of E.D., ~~Service~~ and Conduct Rules were initiated against him resulting in his removal from service. The appeal and representation filed by him was rejected. He has sought relief in the back drop of these facts.

3. The arguments of Shri R.P. Singh, learned counsel for the applicant and Km. Sadhna Srivastava, learned counsel for the respondents have been heard.

4. The learned counsel for the respondents has drawn attention to the instructions of Director General regarding

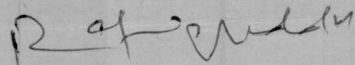


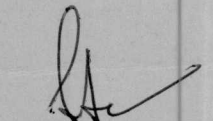
granting of leave of E.D. agents. It has been provided under the instructions that if an E.D. agents remain absent for more than 180 days at <sup>a</sup>/stretch, he will be liable to be proceeded against under Rule 8 of E.D. (Service and Conduct) Rules 1964. There is no denial on the part of <sup>the applicant</sup>/that he remained absent upto 26.08.1986. The respondents have treated him to be absent till 04.09.1986 and have passed order <sup>of</sup>/put off with effect from that date. They have denied that the applicant reported on duty w.e.f. 26.08.1986. The respondents have mentioned that the applicant sent an application dated 31.08.1986, which was received by the respondents on 05.09.1986 in which the applicant has stated that he attended <sup>Branch</sup>/Post Office on 27.08.1986 to 31.08.1986. 27.08.1986 was Janmastami and 31.08.1986 was Sunday. The applicant has, however, filed letters written by him to the Inspector on 26.08.1986 and to the Superintendent of Post Office on 30.08.1986 claiming that he had gone to the Branch Post Office and was not given charge. He has also filed a certificate given by Gram Pradhan that the applicant came from 26.08.1986 to 30.08.1986 but was not allowed to be given charge. This appears to have been summarily rejected by the respondents without any inquiry.

5. From the facts above it appears that the respondents have waited till the period of 180 days was over before putting off the applicant and initiating proceedings under Rule 8 of E.D. Agents (Service and Conduct) Rules 1964. We, therefore, set aside the order of

punishment. The applicant shall be allowed to join on his post E.D.M.P., Udiyawan by the respondents within three months from the date of receipt of a copy of this order. He shall, however, not be allowed any back wages.

No order as to costs.

  
Member (J)

  
Member (A)

/S.P./