

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1051 of 1992.

Allahabad this the 17th day of November, 1998

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

Hon'ble Mr. S.K. Agrawal, Member (J)

Shri Chhabbi Nath Ram, aged about 64 years, son of
Late Sri Mangali Ram, Resident of Village Chak Ahiram,
Post Office Panail Via Dohrighat, District Mau.

Applicant

By Advocate Sri C.K. Rai.

Versus

1. Senior Superintendent, Post Offices, Gorakhpur Division, Gorakhpur.
2. Director, Postal Services, Gorakhpur Division, Gorakhpur
3. Chief Post Master General, U.P. Lucknow.
4. Post Master General, Gorakhpur Division, Gorakhpur.
5. Union of India through Secretary Postal Department.

Respondents.

By Advocate Sri S.C. Tripathi.

ORDER (Oral)

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

This is an application filed under section 19
of the Administrative Tribunals Act, 1985.

2. The applicant filed this O.A. seeking the relief that a direction be issued to the respondents to determine the amount of pension by upholding the claim of the applicant to cross the efficiency bar in November, 1985 and payment of arrears with interest from 01.12.1986 till the date of payment. The applicant also claimed the cost of this application.

3. The facts as narrated by the applicant are that the applicant retired as Post Master of Gagha Post Office District Gorakhpur on 30.11.1986. The efficiency bar of the applicant fell due to be crossed for grant of further increment on 01.11.1985. The respondents informed the applicant that he was not allowed to cross efficiency bar because of pendency of disciplinary case. The applicant's case is that disciplinary proceedings against him concluded on 26.11.1982 and his increment for 3 months was withheld by virtue of that order. The period of penalty due was over long before the date of crossing of efficiency bar.

4. The arguments of Sri C.K. Rai, learned counsel for the applicant and Sri S.C. Tripathi, learned counsel for the respondents, were heard.

5. Learned counsel for the respondents also showed the original record of this case and it transpires that a show-cause notice was issued on 10.1.1986 to the applicant for certain acts of omission and commission. The respondents after considering the representation of the applicant dated 07.12.1985 took a lenient view considering his impending retirement and awarded him

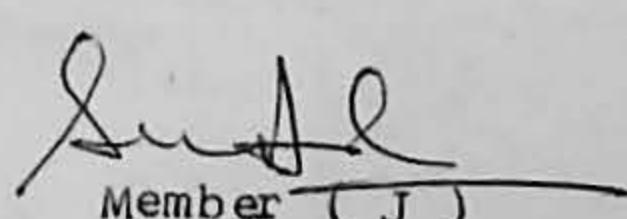
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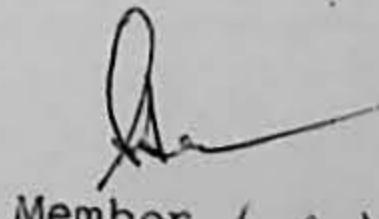
a penalty of censure.

6. The short question here is whether the penalty of censure should have resulted in delaying the crossing of efficiency bar by 3 months ^{i.e.} from 01.11.85 to 01.12.86. The decision whether an employee is entitled to cross efficiency bar or not is taken on the basis of his performance as reflected in the confidential reports. The confidential reports of the applicant remained the same on 01.11.1985 as well as in February, 1986. Another issue which can be raised is that the order of punishment was taken into account in withholding the efficiency bar on 01.11.1985. However, the order of punishment came only in January, 1986 and if it was to have any impact of efficiency bar, it would have only been after the date of punishment which is 10.1.1986. in this case. The respondents have not considered it fit to withhold the efficiency bar after this date. Since his performance on 01.11.1985 and 01.12.1986 could not have been different as it would ^{have} reflected from the same set of confidential reports, therefore, we consider the applicant to be entitled to be considered for crossing of efficiency bar w.e.f. 01.11.1985.

7. The respondents in the light of the above, are directed to re-consider the date of crossing of efficiency bar by having a review D.P.C. and pass suitable orders within a period of 3 months from the date of receipt of a copy of this order. The applicant shall be entitled to all consequential benefits ^{once} _{is allowed} he ^{has} to cross the efficiency bar w.e.f. 01.11.1985. No order as to costs.

/M.M./


Member (J)


Member (A)