

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 24th day of November, 2000

Original Application No. 1432 of 1993

CORAM :-

Hon'ble Mr. V.K. Majotra, A.M.

Hon'ble Mr. Rafiuddin, J.M.

Abdul Salam Hashmi

S/o Shri Abdul Quddus Hashmi,

Ex Sub Postmaster, S.N. Marg P.O.

Allahabad R/o 200, Ranimandi, Allahabad-3.

(Sri K.P. Srivastava/Sri RK Tewari, Advocates)

..... Applicants

Versus

1. Sr. Supdt. Posts, Allahabad.

2. Chief Postmaster General,
Lucknow-1.

3. Union of India through
Secretary Ministry of Communications,
New Delhi.

4. Director of A/Os Postal, Lucknow.

(Sri S.C. Tripathi, Advocate)

..... Respondents

ORDER (Oral)

By Hon'ble Mr. V.K. Majotra, A.M.

By this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has assailed the impugned order dated 1-8-1989 whereby the period of his suspension from 27-3-1985 to 30-5-1986 has been ordered to be treated as non-duty. The applicant has also challenged the Memo. dated 2-1-1992 whereby a sum of Rs.31,350/- being the amount of DCRG has been sanctioned in his favour after a delay of 4½ years.

2. The applicant was posted as Sub Post Master (LSG) at S.N. Marg Post Office, Allahabad. During his incumbency between 25-9-1981 and 5-7-1983, it is alleged that certain fraudulent withdrawals were detected in SB Account No. 1184943 standing in the name of ^{Ab} Ramayan Singh. The applicant was placed under suspension by Memo. dated 26-3-1985 on the allegation that he was found involved in the fraudulent withdrawals. He was proceeded under Rule 14 CCS(CCA) Rules, 1965 vide Memo. dated 22-1-1986. His suspension order was revoked by Memo. dated 28-4-1986. The applicant retired from service on 30-6-1987 on attaining the age of superannuation. He filed OA No. 35 of 1986 seeking stay of the departmental proceedings against him. The Tribunal vide order dated 11-3-1987 stayed the departmental proceedings and ordered to wait for the criminal proceedings against the applicant. It was also ordered that the department shall pay balance of salary etc. as per Rules. The respondents did not pay full pay and allowances to the applicant for the suspension period. The department decided by the Memo. dated 1-8-1989 to treat the period of suspension of the petitioner from 27-3-1989 to 30-5-1986 as non-duty. The applicant has sought setting aside of the impugned order dated 1-8-1989 and a direction to the respondents to treat the suspension period as duty for all purposes. The applicant has also sought consequential benefits regarding pay and allowances and other dues.

3. In their short counter affidavit the respondents have stated that the criminal case no. 170/1985 under Section 409, 470 and 120 IPC is still pending against the applicant in the Court of Chief Judicial Magistrate, Allahabad.

4. We have heard learned counsel for both sides and perused the material available on record as well as produced by the learned counsel for the respondents.

5. Drawing our attention to Annexure-A-7 to the OA, learned counsel for the applicant stated that the President took a decision in respect of disciplinary proceedings initiated against the applicant that it is not a fit case to be proceeded against under Rule 9 of the CCS(Pension) Rules, 1972. Accordingly, the proceedings were decided to be dropped. Learned counsel for the applicant also contended that when there is nothing incriminating against the applicant in the First Information Report (Annexure-A-9) ^{and} till date no charge could be drawn against the applicant, ^{he has} ~~he has~~ unnecessarily been harassed for long number of years and his suspension period has been treated as non-duty.

6. The record produced by the respondents does not indicate ^{any} ~~any~~ progress in the criminal case alleged to have been instituted against the applicant. Learned counsel for the respondents has ^{had} ~~had~~ protracted correspondence with the authorities regarding the progress of the prosecution in respect of the First Information Report (Annexure-A-9 to the OA), but no information seems to have come forth in the matter. The First Information Report as per the contention of the learned counsel for the applicant does not reveal incriminating material against the applicant. The respondents have failed to bring to our notice the fate of the criminal proceeding against the applicant. On the contrary Annexure-A-7 produced by the applicant establishes that the disciplinary proceedings initiated against the applicant were examined by the President in the light of the relevant

records and he found that it was not a fit case to proceed against the applicant under Rule 9 of CCA(Pension) Rules, 1972 and, therefore, the proceedings initiated against the applicant were dropped. In this backdrop when the disciplinary proceedings have been dropped against the applicant and the President has ordered payment of all the pensionary benefit, which were withheld on account of the pendency of the disciplinary proceedings, there is no justification at all for sticking to the ^{1c} instance of the period of suspension as period of non-duty, on the basis of the alleged criminal proceedings in which relevant material has not been shown.

7. Having regard to the above reasons and the discussion, the respondent's order dated 1-8-1989 is set aside and the respondents are directed to treat the period of suspension of the applicant from 27-3-1985 to 30-5-1986 as period spent on duty for all purposes.

^{will be}
He ^{will} also be entitled to all consequential benefits ^{1c}
treating ^{1c} him for the aforesaid period as on duty.

8. Since the payment of DCRG to the applicant was delayed amounting to Rs.31,350/- ^{1c} was paid to him on 02-7-1999 (Annexure-A-2) on account of the alleged pendency of the criminal proceedings against him. After delay of about 4½ years, we consider it just and proper that the applicant, who has been unnecessarily harassed for such a long time in the alleged criminal proceedings in which respondents have not made any effort to make any progress, should be paid interest @ 12% per annum for the period of non-payment. ^{1c} We order so accordingly. ^{1c}

7. The respondents are further directed to comply with the aforesaid directions within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

See also W. Majah

Member (J)

Member (A)

Dube/