

(11)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.652 of 2006.

Allahabad, this the 11th day of September, 2006.

Hon'ble Mr. Justice Khem Karan, Vice-Chairman
Hon'ble Mr. P.K. Chatterji, Member-A

Nand Lal Kushwaha,
S/o Sri R.B. Kushwaha,
R/o Village & Post Kanta Chandauli,
District - Chandauli.

....Applicant.

(By Advocate : Shri Ashish Srivastava)

Versus

1. Union of India through the Secretary,
Ministry of Posts Telecommunication,
Department of Post, New Delhi.
2. The Director of Accounts (Postal) Aliganj,
Lucknow.
3. Sr. Accounts Officer,
Office of the Director of Accounts
Postal, Lucknow.

...Respondents.

(By Advocate :Shri S.Singh)

O R D E R

By Hon'ble Mr. Justice Khem Karan, V.C. :

On the request of the applicant Chief Post Master General, Lucknow is allowed to be impleaded as respondent No.4.

2. The case of the applicant is that, in 1975 he was placed under suspension w.e.f. 25.2.1975 pending formal disciplinary proceedings. As a result of these proceedings, he was punished with recovery of certain amount from his pay but no orders were passed for treatment of the



suspension period from 25.2.1975 to 18.12.1975. The applicant was promoted to the post of Inspector. He says ultimately the suspension period was regularised vide memo No.F-23/74-75/D dated 8.12.1992 of S.P.O., Mirzapur (Annexure-5) and the period was treated as on duty for all purposes. A perusal of OA, also reveals that he was promoted further but his complaint is that his pay on the promoted post was incorrectly fixed at Rs.10,250/-, instead of at Rs.10,500/-. He complains in para 4.18 of O.A. that vide order dated 20.3.2006 (Annexure-2), his pay has been reduced to Rs.9500.00 from 10,250.00. He also complains in para 4.19 that by order dated 8.2.2006 (Annexure-1), the respondent No.3, has tried to dispute the correctness of order dated 3.2.1993, regarding regularisation of suspension period. He says, he has given representation dated 17.4.2006 (Annexure-A-8) to the respondent No.2, requesting him to correctly fix his pay and not to make any deduction. He has prayed for quashing of orders dated 8.2.2006 (Annexure-A-1), 20.3.2006 (Annexure-A-2) and 19.5.2006 (Annexure-A-3) and also for directing the respondents not to make any deduction pursuant to orders dated 20.3.2006 and asking them to fix his pay at Rs.10,500.00 w.e.f. 1.7.2005.

3. In their short reply, the respondents have tried to say that since the suspension period from 26.2.1975 to 20.12.1975, had already been dealt with vide order dated 24.4.1976 (SCA-2), S.P.O., Mirzapur had no power or occasion to pass order dated 3.2.1993. They say that according to earlier order dated 24.4.1976 this period was to be treated as on duty for pension purposes only. According to them, since the applicant was due to



retire on 31.5.2006, so his service book and other service record was scrutinised for purposes of payment of retiral benefits, and during the course of this exercise, certain letters such as 8.2.2006 were written by one authority to another, and the same cannot be treated to be orders, for making any deduction etc.

4. Though the matter was posted for admission and for considering the request for interim relief, but with the consent of parties counsel, we thought it fit to disposed of ^{it} finally.

5. Communication dated 8.2.2006, being impugned in this OA as order, is a letter from senior account officer to APMG (Staff) O/O C.P.M.G., U.P. Circle, expressing doubt about the correctness of S.P.O's order dated 3.2.1993, regarding treatment of suspension period. He has requested for necessary action in the context of order dated 3.2.1993 of S.P.O, Mirzapur. It is difficult to characterize this letter dated 8.2.2006 as a decision or order against the applicant, for CPMG may not agree with Sr. Account Officer, Communication dated 20.3.2006 being impugned in the OA, is noting but an authorization for various circular under different heads. So, it is also not an order. Letter dated 19.5.2006, ^{is} by Sr. Account Officer to Post Master Mirzapur Pratapgarh and Allahabad pointing out irregularities, in payment of salary to the applicant, during the periods mentioned therein. We do not know the response of the post masters and the final decision in the matter. It appears to us that the applicant has rushed to the Tribunal, before the actual decision in the matter. He may have reason to

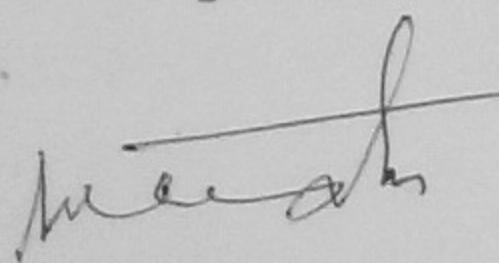


apprehend that things would ultimately go in the way suggested in the letters mentioned above, but till ~~by~~ such final action is taken, this Tribunal cannot express its view or issue positive direction for not proceeding with ^{the} matter, referred to in the said letters.

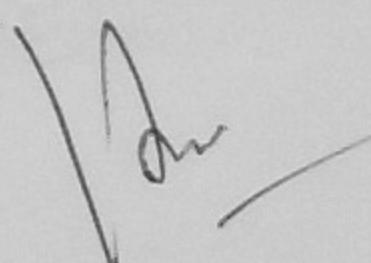
6. Shri S. Singh, learned counsel for the respondents says that to his information, the department has taken no decision ^{so far} for making any deduction from the amount payable to the applicant on his retirement. He has also stated that only a provisional pension has been fixed and final pension is yet to be fixed.

7. In the circumstances, it seems just and proper to ask the respondents to give opportunity to the applicant to show cause, before passing any orders against him ^{as} this ^{will} reduce the future chances of litigation.

8. Thus this OA is finally disposed of with a direction to the respondents, to provide an opportunity to the applicant of showing cause, before any orders/decision, affecting the applicant are passed, in the context of suspension period or fixation of salary or payment of pension or gratuity etc. The respondents are further directed to sanction final pension as per rules, within a period of four months, from the date a certified copy of this order is produced before them. No order as to costs.



Member-A



Vice Chairman

RKM/