

(14)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.977 OF 2007

ALLAHABAD THIS THE 20TH DAY OF OCTOBER 2008

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J
HON'BLE MR. K. S. MENON, MEMBER-A

Prabhu Narain Ram,
S/o Late Banwari Ram,
R/o Village Daudpur, Post Mahammadabad,
Yusufpur, District-Ghazipur.

. Applicant

By Advocate : Shri S. K. Pandey

Versus

1. Union of India through Secretary,
Ministry of Communication, Government of India,
New Delhi.
2. Post Master General, Allahabad Region,
Allahabad.
3. Director Postal Services,, Allahabad Region,
Office of Post Master General,
Allahabad.
4. Shri Udai Krishna, the then Director of Postal
Services, Allahabad Region, Office of Post Master
General, Allahabad. Presently posted as PMG
Kanpur Region, Kanpur.
5. Superintendent of Post Offices, Mirzapur.
6. Superintendent of Post Offices,
West Division, Varanasi-2.
7. Sri R.S. Yadav, presently posted as
Superintendent of Post Offices,
West Division, Varanasi-2

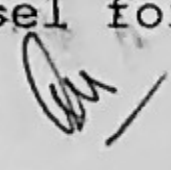
. Respondents

By Advocate : Shri S. C. Mishra

O R D E R

DELIVERED BY JUSTICE A. K. YOG, MEMBER-J

Heard learned counsel for the parties.



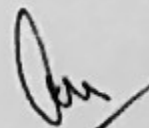
(15)

2. The applicant is an employee of Postal Department. Certain irregularities were detected. The applicant was put under suspension. For convenience we may reproduce para 4.32 of the OA.

"4.32 That it is further submitted that from the date of suspension i.e. 21.10.2008 till date, the suspension of the applicant was never review, as such, the suspension order cannot be said to be legal after expiry of three months as per CCS (CCA) Rules, 11965, which shall be discussed later on in the succeeding paragraphs".

3. Even though the applicant has prayed for quashing of charge sheet and disciplinary proceedings but the learned counsel for the applicant fairly stated not to press the relief on this score in view of settled position of law that court should not interfere with the disciplinary enquiry and/or quash charge sheet. Shri S. N. Chatterji, Additional Central Government Standing Counsel, points out that High Court Allahabad vide order dated 14.02.2006 in writ petition no.8797 of 2006,- (Union of India and Another Versus Ravindra Nath Tripathi and Others).

4. However, we find no justification for not reviewing and saying enhanced subsistence allowance as per 'Rules'. The Respondents have failed to indicate even a single circumstance for non consideration and failure to Review 'Subsistence Allowance' for a long time.



5. According to the 'Short counter affidavit' filed by the respondents-the applicant was initially suspended vide order dated 01.03.2005. This order of suspension was however, revoked on 03.03.2005, under pressure of Union (Para 8 of Short CA). He was again suspended vide order dated 03.10.2005 and this order was sent to the applicant but it could not be served as he did not join the place of his new assignment (Para 10 of short CA). Para 8 and 10 of the short counter affidavit have been replied vide para 7 and 8 of the rejoinder affidavit he has controverted the defence case and the applicant denies the alleged irregularities on his part and/or the charge framed against him.

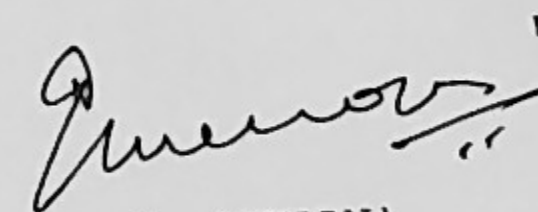
6. The applicant, as on date does not contend that he has not received the charge sheet. On the other hand, Respondent have failed to justify pendency of Enquiry. Further in the short counter affidavit we find no averment that 'subsistence allowance' has been reviewed in accordance with rules and whether 'Suspension' is 'Warranted' after employee has been transferred. It is well settled if any employee is deprived of subsistence allowance during pendency of disciplinary enquiry it violates Principles of Natural Justice. In this view of the matter, action of the respondents not to 'pay subsistence allowance' or failure to review-and pay enhanced

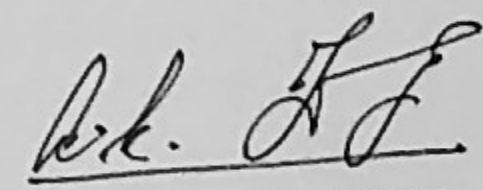
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Subsistence allowance as per rules from time to time amount to depriving the applicant of reasonable opportunity to defend.

7. Consequently, we direct the respondents to Review and pay subsistence allowance as per law/relevant Rules, both for the post (as arrears) and for future month by month. This exercise must be completed within one month of receipt of a certified copy of this order. We further provide that in case Disciplinary Enquiry proceedings are not completed within six months (as stipulated above in this order), suspension order shall be deemed withdrawn with liberty to the Respondents to withdraw or complete in future, Disciplinary Enquiry in question.

4. OA is allowed partly subject to the above directions/observations by moulding the reliefs (claimed in OA) to the extent indicated above. OA fails with to the other reliefs claimed in the OA No Costs.


(K. S. MENON)
Member-A


(JUSTICE A. K. YOG)
Member-J

/ns/