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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

Date of order : 19/09.1997.

Original Application No. 123 of 1992

Ashok Kumar Behera S/o Shri Birabar Behera, Village-Matikota,  
P.O.Balianta, District-Puri, at present working as E.D.Packer,  
Balianta E.D.B.P.O., P.O.Balianta, Dist.-Cuttack.

.....Applicant

Versus

1. Union of India, represented by its Secretary, Department  
of Post, Dak Bhayan, New Delhi.
2. Chief Postmaster General, Crissa Circle, At/PO-Bhubaneswar,  
Dist.Puri.
3. Superintendent of Post Offices, Bhubaneswar Division, At/PO-  
Bhubaneswar, Dist.-Puri.
4. Assistant Superintendent of Post Offices, North Sub-Division,  
Bhubaneswar, At/PO-Bhubaneswar, Dist.-Puri.

.....Respondents

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CORAM :

THE HONOURABLE MR .SOMNATH SOM, VICE CHAIRMAN

THE HONOURABLE MR .A.K.MISRA, JUDICIAL MEMBER

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Mr.A.Deo, Advocate, for the applicant.

Mr.A.K.Misra, Advocate, for the respondents.

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PER HON'BLE MR. A.K. MISRA, JUDICIAL MEMBER :

The Applicant has filed this O.A. with the prayer that <sup>1</sup>adirection be issued to the respondents to pay the applicant his Salary and Allowances for the period he was put off duty i.e. from 7.4.1988 till 5.10.1989, the date of reinstatement and any other relief which in the opinion of the Tribunal, is necessary.

2. Notice of this O.A. was sent to the respondents who have filed the Counter stating therein that applicant was put off duty during the course of departmental inquiry as he was found to have committed certain irregularities in discharging ~~of~~ his duties. Therefore, the applicant is not entitled to any relief. The Application deserves to be dismissed.

3. We have heard the learned counsels for the parties and gone through the record.

4. The period of put off duty i.e. 7.4.1988 to 5.10.1989, is not in dispute. The only question in this case is whether the applicant is entitled to the allowances for the said period. From the record, it is borne out that applicant was served with a Charge Sheet. In the first charge, it is mentioned that he tempered with a registered letter and delivered the same in open condition to the addressee. But this charge was not proved against the applicant. The second charge against the applicant was that although he was Extra Departmental Packer, in the Post Office, he had booked several V.P.P. Items for which he was

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not empowered. This charge was found proved against him. But with warning, the applicant was reinstated on his post. The operative portion of the report, Annex.A-1, can be usefully quoted here.

".....Disciplinary Authority of this case do hereby order that Sh.A.K.Behera, E.D.Packer, Baliana (Put off duty) is reinstated in service with immediate effect with an intention that he should not comit such type of un-authorized work in future and the period of his put off duty is treated as "Non Duty" for all purposes."

5. We have gone through the Report of the Disciplinary Authority. During the course of inquiry, it came-out that the delinquent Shri Behera in absence of P.A. of the Office by verbal orders of the S.P.M. assisted the S.P.M. in booking the V.P. Articles to dispose of the public. Considering this aspect, the Disciplinary Authority himself has observed that this draws sympathy to Shri Behera but technically he is found to have violated the rules, therefore, the charge is proved.

6. But, in our opinion, the duties discharged by Shri Behera on verbal instructions of the S.P.M. was rather an act of devotion to duty. If he had no devotion towards duties, he could have refused discharging such duty on verbal directions of S.P.M. by saying that it is not his job. But here is a case in which it appears that a man is held guilty for discharging extra duty under the orders of his superior.

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7. The Provisions of Put off Duty are contained in Section 9 of Extra Departmental Agents (Conduct and Service) Rules, 1964 (hereinafter referred to as 'the Rules'). Under this Rule, the Department has issued certain Guidelines from time to time. The Guidelines for putting off duty was issued by the Director General of Posts, vide its order dated 26.7.1990 wherein ~~under the Conditions and Circumstances~~ it has been mentioned that when Extra Departmental Agents can be put off duty. To appreciate the controversy in this case, the Instructions can be quoted as follows :-

"2.Putting an Extra-Departmental Agent off duty may cause a lasting damage to his reputation if he is ultimately exonerated. The competent authority is, therefore, expected to exercise his discretion with the proper care and due caution while ordering an Extra-Departmental Agent to be put off duty. Generally speaking, put off duty cases fall under two categories, viz.,-

- i) cases relating to frauds ; and
- ii) cases relating to unauthorised absence, leave without sanction and complaints from the public etc.

While the inquiry into the first type of cases may take some time, there is no reason why the type of cases in the second category involving administrative lapses should remain pending for long. The following guidelines by way of precaution may, therefore, be strictly followed by the competent authority before putting an Extra-Departmental Agent Off duty :-

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- (a) enquiries made into a complaint or the inspection of an office should have revealed a prima facie case against the delinquent.
- (b) the offence should be of such a serious nature that removal from service would be probable ultimate punishment and it would therefore be inadvisable that the offender should be allowed to continue to perform his duties pending finalization of the disciplinary case against him.
- (c) petty breaches of discipline and minor departmental offences like unauthorised absence, leave without sanction and irregularities of minor nature should not normally justify putting an EDA off duty.
- (d) .....
- (e) ..... "

8. In this case, the applicant was not found or charged to have committed an act as described in (i) and (ii) above and, therefore, should not have been Put off duty at all as per the departmental instructions quoted above. The applicant has also been reinstated after inquiry. In view of this, depriving the applicant of his pay and allowances for the period of Put off duty, is quite unreasonable and unjust. The applicant, having been reinstated to his post is, in our opinion, entitled to his pay and allowances for the Put off duty period. In this respect, we find support from (1991) 17 ATC Page 138-Trilochan Sarangi Vs. Union of India and Others. The O.A. deserves to be accepted.

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9. The O.A. is, therefore, accepted. The respondents are directed to pay to the applicant Pay and Allowances for the Put off duty period i.e. from 7.4.1988 to 5.10.1989, as are due to him, within three months from the date of communication of this order.

10. Parties are left to bear their own costs.

*Somnath Singh*  
( SOMNATH SINGH )  
Vice Chairman 19.4.97

*3/3/97*  
( A.K.MISRA )  
Judicial Member

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