

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH AT CUTTACK.

O.A.NOS. 325, 326 & 327 OF 1993
Cuttack, this the 8th, day of November, 1995

CORAM:

HON'BLE SHRI HIRAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)
AND
HON'BLE SHRI P. SURYAPRAKASH, MEMBER (JUDICIAL)
(Ernakulam Bench)

In O.A. 325/93

Dayanidhi Mohanty,
Postal Assistant (BCR),
(under suspension),
Jeypore (Koraput) Head Office,
Jeypore-764 001

....

Applicant.

In O.A. 326/93

Bhaskar Rao,
Postal Assistant
(under suspension),
Jeypore (K) H.O.,
Jeypore-764 001

....

Applicant

In O.A. 327/93

Prakash Chandra Brahma,
Asst. Post Master (under suspension),
Jeypore (Koraput) Head Office,
Jeypore (Koraput) -764001

....

Applicant.

By the Advocate

-versus

Shri D.P. Dhal Samant.

In all the O.A.s.

1. Union of India, represented through
Chief Post Master General,
Orissa Circle, Bhubaneswar-751001.
2. Director of Postal Services,
Berhampur Region,
Berhampur (Ganjam)-760001
3. Senior Superintendent of Post Offices,
Koraput Division, Jeypore (Koraput) -764001 ... Respondents.

By the Advocate

Shri Ashok Misra,
Senior Central Government
Standing Counsel.

....

H. RAJENDRA PRASAD, MEMBER (ADMN.) The applicants, Sarvashri Dayanidhi Mohanty, P.R.I.(P), Prakash Chandra Brahma, Assistant Post Master, and Bhaskar Rao, Postal Assistant, Jeypore Head Post Office, were placed under suspension in December 1982 by the Senior Superintendent of Post Offices, Koraput Division, in connection with a disciplinary case that was contemplated against them in connection with certain losses on account of fraudulent encashment of National Savings Certificates. The suspension was, however, revoked later. Soon thereafter the applicants were suspended once again by the Director of Postal Services. Proceedings under Rule 14 of C.C.S. (C.C.A.) Rules were initiated against them shortly thereafter.

2. The applicants pray for quashing of the revised orders placing them under suspension. They also pray that the period intervening between the first and the second suspensions should be treated as time spent on duty. The interim prayer for 'revocation' of the later suspension was not agreed to by this Tribunal at the time of admission of the Original Applications.

3. The reliefs prayed for are claimed on the following grounds:

(1) The suspension is not covered by any guidelines issued by the Department;

T. Gopal Rao

(2)

The earlier suspension having been revoked for good and sufficient reasons, the subsequent suspension was uncalled for as there was no new ground or material to warrant renewed suspension;

(3)

There is no material or strength in the charges levelled against them under Rule 14 of C.C.S.(CCA) Rules;

(4)

There is no allegation of lack of integrity or of unbecoming conduct in the charges levelled against them;

(5)

Since the investigations have been duly completed and the charge-sheet has been already issued and as all the relevant documents are securely in the custody of the respondents, there is no reason to continue the suspension any longer; and

(6)

The revised order of suspension was issued mechanically and without proper application of mind.

4.

The Respondents submit in their counter affidavit that the first set of suspensions has had to be revoked because it was passed by an authority who was not competent to issue the said orders.

5.

This administrative error was rectified by issuing the revised suspension orders against the applicants. It was still considered necessary to keep them under suspension in view of the proceedings which were proposed

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to be initiated against them, and as the charges were of serious nature. It is also pointed that Respondent 2 had duly disposed of the representations of the applicants within the time set by this Tribunal on 7.7.1993. It is mentioned that every effort ^{was being} made to finalise the disciplinary case against these applicants within 120 days as directed by the Tribunal.

6. It is seen that the disciplinary case against the applicants was to be finalised by 7.11.1993, which was the time-limit set by this Tribunal. The counter was filed on 27.9.1993, whereas the Original Applications were filed on 21st June, 1993. It is, therefore, possible that the disciplinary proceedings against the applicants have already been finalised by the issue of a suitable final order. It is also expected that necessary orders have been passed as regards the precise manner in which the period intervening between the earlier and later suspensions is to be treated, while passing the final order in the disciplinary case.

7. There is, therefore, no basis or scope to pass any orders in this case in accordance with the prayers of the applicants at this belated stage, without knowing the result of the disciplinary proceedings and the final orders issued in connection with the same.

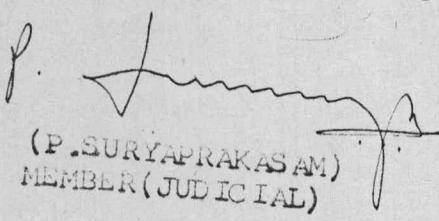
8. The revised suspension orders issued by Respondent 2 are covered by sub-para (iv) cited in Annexure-A/4 (page 19 of the O.A.) and sub-para (iii) under the note which is on page 20, ibid, and rule 10(i)(a)(aa) of

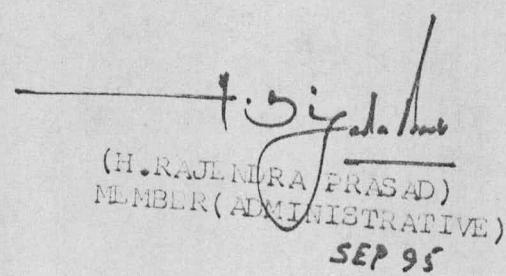
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CCS(XXA)Rules, 1965. There is, therefore, no scope to interfere with the suspension. It is also accepted that the authorities do have the liberty to rectify any error in administrative action if the same is detected at a subsequent stage. There is nothing inherently wrong in this.

9.

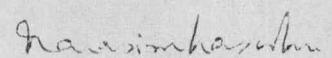
The applications are disallowed with the above observations. The applicants shall have the liberty to agitate their grievances afresh if (i) the disciplinary proceedings initiated against them have not been finalised yet, (ii) no order as regards the treatment of the period intervening between two spells of suspension has been passed, (iii) their appeals regarding (a) treatment of period of suspension and (b) against the outcome of the disciplinary proceedings, if submitted to the competent authority, have not been disposed of yet.


(P. SURYAPRAKASH)
MEMBER (JUDICIAL)


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)
SEP 95

Pronounced in the open Court on 8-11-95.

A. Nayak, P. S.



Member (Adv) on tour
Cuttack.