

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dated 26.2.2001

Heard Shri P.K.Mohanty, on behalf of Shri S.Mohanty, the learned counsel for the petitioner and Shri A.K.Bose, learned Sr.St.Counsel for the respondents and also perused the records.

In this O.A. the petitioner has prayed for a direction to respondents to grant him ex gratia allowance to the extent of 50% of basis pay w.e.f. 30.6.1997 and also for a direction to respondents to pay arrears within a stipulated period. The 3rd prayer is for quashing the disciplinary proceedings. Respondents have filed their counter opposing the prayer of the applicant. No rejoinder has been filed.

The case of the applicant is that he was working as E.D.D.A., Badamundilo B.O. from 25.2.1981. In order dated 31.1.1997 at Annexure-1 he was put off duty, not no proceedings were initiated against him. He was sanctioned exgratia payment in lieu of compensation to the tune of 25% of basic allowance in order dated 11.2.1997 at Annexure-2. So far no charge sheet has been issued against him and he has been kept under put off duty. Applicant has stated that under the rules if the period of put off duty is beyond 90 days for reasons unconnected with any act or omission of the delinquent official, then the put off duty allowance is to be increased to 37.4% of the basic allowance. In the context of the above, the applicant has come up with the prayers referred to earlier.

Respondents in their counter have stated that while the applicant was working as E.D.D.A., Badamundilo he unauthorisedly accepted amounts towards savings bank and recurring deposits from the depositors concerned, made entries in their passbook unauthorisedly even though he was not authorised to receive such deposits. ~~and~~ It is further stated that the applicant did not handover the amounts to the E.D.B.P.M. one Narayan Pradhan for incorporating the same in the ~~San~~ Post Office Account. Moreover, the applicant managed to prepare the daily accounts in his own hand-writing and submitted the same to the accounts office by omitting these amounts after getting it signed by the BPM. It is stated that the applicant was put off duty and

S. J. M.

another person one Rabindra Kumar Swain was provisionally appointed to manage the work of E.D.D.A. Respondents have stated that ~~the~~ verification of past work of the applicant was taken up, but as the applicant did not cooperate in the inquiry into the allegation his past work could not be verified and as a result of which disciplinary proceedings against the applicant has not been initiated. Respondents have also stated that enhancement of put off duty allowance as is required under the rules has already been done.

We have considered the pleadings of the parties and also submissions made by the learned counsel of both sides. Instructions of D.G.Posts provide that in case of E.D.Agents the disciplinary proceedings should be completed expeditiously. In the instant case the applicant has been put off duty ~~for~~ more than four years ago and charges are yet to be issued against him. The plea that the applicant is not cooperating with the inquiry cannot be accepted. In case the applicant has misconducted himself by accepting deposits unauthorisedly and misappropriated the same, then it is not expected that he would cooperate. The departmental authorities should have conducted in the enquiry on their own and issued charge sheet against him. But as this has not been done the applicant cannot be allowed to be kept under off duty indefinitely. Instructions dated 26.7.1990 of D.G.Posts, gist of which has been printed at Pages 59 - 60 of Swamy's Compilation of E.D.Rules (7th Edn.) provide that the disciplinary authority must make every effort to finalise the disciplinary proceedings and pass final orders so that an E.D. Agent does not remain put off duty for more than ~~of~~ 45 days. Earlier limit of 120 days was brought down to 45 days in this instruction. In the context of the above, we find that the action of the departmental authorities putting the applicant under off duty for more than four years, even without initiating/issuing charge sheet against him is not in accordance with the instructions of DG Posts. In view of this the applicant cannot be allowed to be

Sd/-

continued under put off duty. Respondents in their counter have also not mentioned that any criminal case has been filed against the applicant. In view of the above, we direct the Respondents, more particularly Res. 3 and 4 to reinstate the applicant as E.D.D.A. within a period of 30 (thirty) days from the date of receipt of this order. As the departmental authorities have stated that enhanced put off duty allowance has been paid to the applicant and this has not been denied by the applicant by filing any rejoinder, we hold that no order need be passed with regard to enhancement of put off duty allowance to the applicant, as prayed for by him.

In the result, O.A. is allowed in terms of observations and directions made above. However, we make it clear that the departmental authorities will be free to proceed against the applicant, even after his reinstatement in service on the ground of alleged lapses on his part for which he was put under off duty. There, shall be no order as to costs.

MEMBER (JUDICIAL)

VICE-CHAIRMAN

Free copies of
final order
dt. 26.2.2007 given
to both sides.

S.O(D)

D.S.
28/2/07