

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

original member

For admission,

ad to 12.9.02

Records not found

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1.8.02

12.9

Order dated 12.9.2002

Heard Shri P.K.Padhi, the learned counsel for the applicant and Shri A.K.Bose, the learned Senior Standing Counsel for the Respondents(Department) and perused the records.

The Applicant, Shri Jibardhan Biswal, who joined as Postal Assistant in Bhawanipatna Head Post Office in June, 1979, was placed under suspension (in contemplation of disciplinary proceedings) on 10.2.1994. He was charge-sheeted under Rule-14 of CCS(CCA) Rules, 1965 on 13.2.1997. The suspension order having been removed, the Applicant was reinstated on 14.8.1997 and, on 31.3.1999, punishment (of reduction of two stages and recovery of residual loss of Rs.162.30) was awarded on the Applicant. On review, the punishment was enhanced to that of compulsory retirement (by order dated 31.3.2000) by the Appellate Authority. It is stated at the hearing that the Applicant has preferred a revision on 26.9.2000. It is the case of the Applicant that while he was still under suspension and before he was charge-sheeted in the departmental proceedings, he completed 16 years of service as Postal Assistant during June, 1995, and therefore, he was entitled to certain service benefits. It is the further case of the Applicant that D.P.C. which met on 16.10.1996, 22.7.1997, 18.3.1998 and 6.4.1999, did not recommend his case on the ground of suspension and pendency of the departmental proceedings.

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It is the case of the Advocate for the Applicant ~~that~~ at the time of hearing that since charge-sheets were not drawn against the Applicant by June, 1995 (when the applicant completed 16 years of service as Postal Assistant) the D.P.C. could not have refused to recommend the case of the Applicant on the ground of pendency of the disciplinary proceedings. In the said premises, the Applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985.

By filing a counter the Respondents have explained that since the applicant was facing a departmental proceedings, he was not given the benefits of 16 years service as a Postal Assistant.

On a close examination of the facts it is seen that by the time the Applicant completed 16 years of service as Postal Assistant in June, 1995, he was already placed under suspension (since 10.2.1994) in contemplation of disciplinary proceedings and therefore, his case was only available by the DPC to be kept in a sealed cover. It appears that the D.P.C. which met on 16.10.1996, 22.7.1997 and 18.3.1998 straightaway refused to grant any benefit to the Applicant for the reason of suspension/pendency of the departmental proceedings. What they should have done was to consider the case of the Applicant on merit, notwithstanding the suspension order/pendency of the departmental proceedings and ought to have kept the same in a sealed

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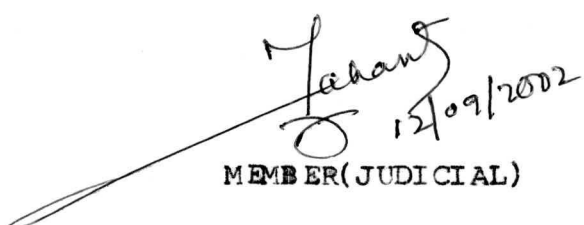
cover following the decision of the Hon'ble Supreme Court in the case of Union of India & Ors. vs. K.V. Janaki Raman reported in AIR 1991 SC 2010.

However, we are refrained ourselves to give any premium to the Applicant at this stage, because, ultimately he has been punished.

The Advocate for the Applicant has, at this stage, pointed out that the revision petition dated 26.9.2000 of the Applicant is still pending with the Member(P) of the Office of the D.G. Posts and in the event the Applicant succeeds in the revision, his grievances (pertaining to completion of 16 years of service as a Postal Assistant by June, 1995) shall have to be reconsidered. Therefore, without answering anything on merit, we dispose of this Original Application leaving the Applicant to workout his remedy, if any, after disposal of his revision petition dated 26.9.2000.

No costs.

  
VICE-CHAIRMAN

  
MEMBER (JUDICIAL)

Copies of order  
may be sent  
to the court for  
records.

23.9.02

  
23.9.02