

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR.

O.A. No. : 09/1999

Date of Order : 13.3.2000

Sukhlal S/o Shri Mana Meena r/o Godavas Tehsil, Dhariawad, District Udaipur, aged 40 years, Ex EDBPM, Godavas.

..Applicant.

Versus

1. Union of India through the Secretary to the Government, Ministry of Communication (Department of Posts), New Delhi.
2. Senior Superintendent of Post Offices, Udaipur.
3. Post Master General, Southern Region, Ajmer.

..Respondents.

Mr. Vijay Mehta, counsel for the applicant.

Mr. Vinit Mathur, counsel for the respondents.

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. JUSTICE B.S. RAIKOTE.

Though the matter had come up under the caption for admission but with the consent of both the counsel, we dispose of this application on merits.

2. The applicant has filed this OA for quashing of the termination order with a consequential relief of reinstatement from the date of his termination. But on going through the facts, we find that the applicant has not produced any termination order. In counter, it is stated that the applicant was absent from duty with effect from 8.10.1992. He was arrested by Police on 8.10.1992 and was imprisoned for a period of one month but the applicant did not inform to the Department. In those circumstances, the authority

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took necessary action to make temporary arrangement for BPM Godwas with effect from 9.10.1992. The counter also states that the Inspector of Post Offices, Salumber has also reported shortage of some of the stock articles. Thus, the substance of the counter is that the applicant remained absent from duty with effect from 8.10.1992. The fact also remains that though the shortage of some of the stock articles were reported but no departmental proceedings are contemplated. From the show-cause notice Memo No. H-401/PF/225 dated 10.11.1997, it appears to us that the department would impose penalty of removal from service on the ground that the applicant has been convicted on criminal charge under section 19 of the Rajasthan Land Revenue Act, 1956. Now it is brought to our notice that the said conviction under Rajasthan Land Revenue Act has been set aside by the Appellate authority i.e., the Collector, Udaipur on 23rd July, 1997. This fact is admitted in para No. 3 of the counter. Further it is stated that in view of these circumstances, the show cause notice dated 10.11.1997 (Annexure A/1) has been withdrawn. From these circumstances, it is clear that after 10.11.1997, there was no difficulty for the department to take the applicant on service. The department can not prevent him from discharging his duties in the post which he was holding in view of the fact that even as per the stand taken by the department itself, the applicant has not been terminated from the service.

3. In view of the above circumstances, we are of the considered opinion that the respondents are liable to take the applicant on duty. It is also brought to our notice that on no point of time the respondents have issued any order of termination. In these circumstances, we pass the order as under :

The application is allowed and the respondents are directed to take the applicant on duty on the post he was holding on the

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date of his arrest i.e. 08.10.1992. So far as back wages are concerned, it is open to the applicant to make representations to the appropriate respondent and the respondent may consider it. No costs. If the disciplinary action is initiated or contemplated, it is open to the department to take appropriate action as they deem fit. In the circumstances, the applicant is directed to report to respondent No. 2 on or before 1st April, 2000.



Gopal Singh
(GOPAL SINGH)
Adm. Member

BSR
(B.S. RAIKOTE)
Vice Chairman

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M. S. B.
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Part II and III destroyed
in my presence on 10/12/06
under the supervision of
Section Officer (J) as per
order dated 29/8/06

Section Officer (Record)