

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 210/2002

DATE OF DECISION : THIS THE 8th DAY OF JANUARY, 2004

Hon'ble Mr. J K Kaushik, Judicial Member
Hon'ble Mr. G R Patwardhan, Administrative Member

Sukh Lal son of Shri Mana Meena,
aged 43 years, R/o Gadawas,
District Udaipur.
GDS Branch Post Master, Gadvas (Dhariawad)
District Udaipur.

....Applicant

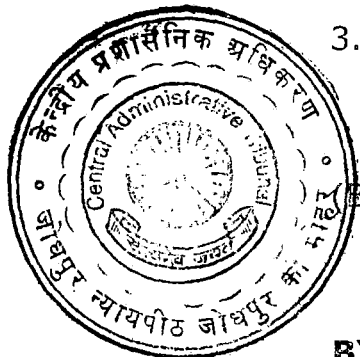
(By Advocate Mr. Vijay Mehta, for applicant)

versus

1. Union of India through
the Secretary to Government,
Ministry of Communication (Department of Post),
Sanchar Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Udaipur.
3. Director, Postal Services,
Southern Region, Ajmer.

.....Respondents.

(By Advocate Mr. Vinit Mathur, for respondents)



ORDER

BY J K KAUSHIK, JUDICIAL MEMBER:

Shri Sukh Lal has filed this Original Application under Section 19 of the Administrative Tribunals Act 1985 wherein the order dated 31.10.2001 (Annexure A/1) and order dated 15/22.05.2002 (Annexure A/10) have been assailed and the further relief has been asked that the same may be quashed and applicant be allowed all consequential benefits.

2. The material facts of this case are at a very narrow compass. The applicant was faced with a charge-sheet for major

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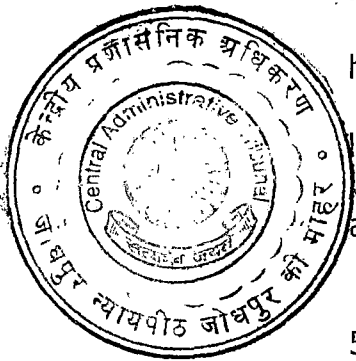
penalty under Rule 8 of EDA (Service & Conduct) Rules 1964. A detailed oral enquiry was conducted and the applicant has been inflicted with the penalty of censure. In addition to this, the period of alleged absence has been treated as a break in service and with a further clause that it shall not count for any purpose. The applicant preferred an appeal and the same came to be rejected and the penalty has been upheld.

3. The respondents have contested the case and have resisted the claim of the applicant and have filed a detailed reply to the Original Application. A short rejoinder has also been filed controverting the facts and grounds raised in the reply.

4. With the consent of the learned counsel for the parties, the matter was taken up for final disposal at admission stage. We have heard the learned counsel for the parties at a considerable length and bestowed our earnest consideration to the pleadings and the records of this case.

5. The learned counsel for the applicant has been very brief in the matter and he restricted the claim to the portion of the penalty wherein the period of absence has been treated as a break in service and the same is not to be counted for any purpose. The learned counsel for the applicant has contended that such part of penalty is not provided in the rules in force and the same is without jurisdiction and deserves to be quashed.

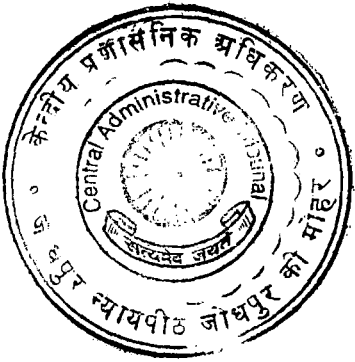
6. On the contrary, the learned counsel for the respondents has opposed the contention of the learned counsel for the



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applicant and has submitted that the concerned authorities have applied their mind and then only the impugned order of penalty has been passed. The Appellate Authority also examined the same and the appeal has been rejected. It has been submitted that the scope of judicial review in the matter of penalty is very limited and the Tribunal can only examine the decision making process in the disciplinary case. The due procedure has been followed in the instant case; therefore, no interference by this Tribunal is called for.

7. We have considered the rival contentions raised on behalf of the parties. To appreciate the controversy which boils down to only a small portion of the impugned order i.e. regarding the break in service and for not treating the period for any purpose. As far as the rules are concerned the following penalties have been prescribed in the rules:



9. Nature of Penalties:

The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Sevak by the appointing authority, namely:-

(i) Censure;

(ii) Debarring of a Sevak from appearing in the recruitment examination for the post of Postman and/or from being considered for recruitment as Postal Assistants/Sorting Assistants for a period of one year or two years or for a period not exceeding three years;

(iii) Debarring of a Sevak from being considered for recruitment to Group "D" or for a period not exceeding three years;

(iv) Recovery from Time Related Continuity Allowance of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders;

(v) Removal from employment, which shall not be a disqualification for future employment;

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(vi) Dismissal from employment, which shall ordinarily be a disqualification for future employment.

8. From perusal of the aforesaid provisions we find that the break in service is not a penalty, envisaged in the rules and as far as the question regarding the treatment of the period of absence is concerned if any adverse order is to be passed, the principle of natural justice is required to be followed, but the same has admittedly not been done in as much as no prior notice for treating the interregnum period as a period not to count for any purpose, was given to applicant.

9. In this view of the matter the contention of the learned counsel for the applicant are well founded and have our concurrence to that extent. The O.A has force and deserves to be accepted. In this view of the matter we pass the order as under:



"The Original Application is partly allowed. The Impugned order 31.10.2001 (Annex A.1) so far it relates to the following portion " यह अवधि सेवा में व्यवधान माना जाए व किसी भी उद्देश्य के लिए नहीं गिनी जाए," is hereby quashed and the applicant would be entitled to all consequential benefits to that extent. As regard the treatment of the period of absence, if the period is treated in any manner to the disadvantage to the applicant, the respondents shall give a show cause notice to him and after hearing the applicant, may pass necessary order in accordance with law. No order as to costs. "


(G R Patwardhan)
Adm. Member


(J K Kaushik)
Judicial Member

Part II and III destroyed
in my presence on 23/10/13
under the supervision of
section officer () as per
order dated 18/10/13

D.R. Ghose
Section officer (Records) 23.10.2013

Card
Per 16/11
15/11