

I/8

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No.275/2006

Date of decision: 13.07.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. Tarsem Lal, Administrative Member.

Smt. Sushila Somani, W/o Shri Pushkar Lal Somani, aged about 45 years, r/o C 59 Bapu Nagar Road, 2 Senti West, Chittorgarh, (Presently working as PA SBCO, Head Post Office Dungarpur)

:Applicant.

Rep. By Mr. S.P. Sharma proxy counsel

For Mr. N.R. Goswami, : Counsel for the applicant.

VERSUS

1. Union of India through the Secretary, Department of Post & Telegraph, Ministry of Communications Government of India, Dak Bhawan, New Delhi.
2. The Post Master General, Rajasthan Southern region, Ajmer 305 006
3. The Director Postal Services, Rajasthan Southern Region, Ajmer 305 006.
4. Shri T.R. Meena, Superintendent of Post Offices, Dungarpur Division, Dungarpur 314 001.

: Respondents.

Rep. By Mr. M. Godara, proxy counsel for

Mr. Vinit Mathur : Counsel for the respondents.

ORDER

Per Mr. Kuldip Singh, Vice Chairman:

The applicant has filed this O.A seeking the following reliefs:



- (i) The impugned order dated 10.01.2006 (annex. 1) passed by respondent No. 4 and the impugned order dated 07.09.2006 (annex. A/2) passed by respondent No. 2 may kindly be declared unsustainable and consequently the same may kindly be quashed and set aside and the period of absence on account of sickness of applicant from 01.07.2005 to 12.10.2005 may kindly be ordered to be treated to be sick leave period and 13.10.2005 to 23.10.2005 as joining time.
- ii) That the impugned order dated 19.04.2005 (Annex. A/5) passed by respondent No. 4 may kindly be quashed and set aside.

K

II/9

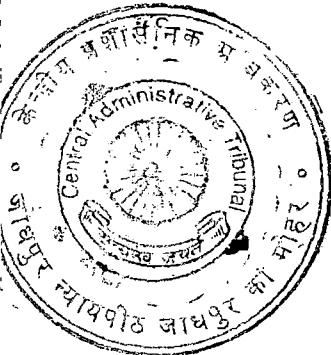
- 2 -

- iii) That by an appropriate order or direction the respondents may kindly be directed to fairly treat the applicant with honour and dignity with pride of womenhood, and she be provided healthy working environment at her workplace, without causing any discrimination.
- iv) Any other appropriate relief which this Hon'ble Tribunal deem just and proper in the facts and circumstances of the case may be passed in favour of the applicant.
- v) The original application of the applicant may be allowed with cost.

However, vide order dated 11.12.2006, it was observed that the applicant is asking multiple reliefs. Therefore the counsel for the applicant has submitted that he is confining the O.A to the impugned order dated 07.09.2006 (Annex. A/1). Thereafter notice was issued only in respect of Annex. A/1, the order passed by the Appellate Authority who rejected the appeal of the applicant and declared certain period of absence of the applicant as 'dies non'

2. The facts as alleged by the applicant in brief are that the applicant and her husband are permanent employees of the respondents. The applicant is presently holding the post of PA SBCO and posted at Dungarpur Head Post Office. It is submitted that the applicant and her husband were ill treated and subjected to various kinds of harassments and the respondent No. 4 has treated them discriminately.

3. When both of them were posted at Chittorgarh Head Post Office, they were harassed by Mr. Bhargawa and Mr. Arya, who are their superiors. The applicant was subjected to various kinds of ill treatment in discharge of her duties. She was victimized and was given very tough task which was pending years together and she was not provided healthy working atmosphere in Chittorgarh post



A handwritten signature consisting of a large, stylized letter 'K' with a horizontal line extending from its right side.

II/10

- 3 -

office. She narrated her difficulties and asked for a change of her duties but the same was not agreed to and this is a case of gender bias. Subsequently both of them were transferred to different places in a very stigmatic way. They challenged the same before this Bench of the Tribunal by filing separate O.As. In the meantime for fake and false charges she was punished by an order dated 19.04.2005 without even conducting any inquiry. The punishment was stoppage of one grade increment for six months without cumulative effect. This Tribunal vide its order dated 31.08.2005, directed the authorities to consider the representation of the applicant and her husband and post them at one place together. Thus they were posted at the present place of posting at Dungarpur. The applicant further submitted a representation to the respondent No.2 narrating the entire facts and the ill treatment meted out to her by the concerned officials at Chittorgarh post office but no attention was paid in this regard. It is further stated that the applicant due to her sickness could not attend to her duties and as such she submitted sickness certificates issued by the authorized doctors but the sickness certificates were not accepted for one or other reason and the medical certificates were rejected stating that they were submitted belatedly and a letter was issued asking her explanation. The applicant submitted her explanation. Apart from the above, the applicant and her husband were denied the salary for nearly 7 months. But despite her explanation she was issued with a warning as to why the certificates were not submitted in time. The respondents with mala



K

-4-

fide intention passed the order dated 10.01.2006 treating the period of absence on account of sickness from 01.07.2006 to 23.10.2005 as 'dies non' causing serious financial and other service losses to the applicant which is arbitrary, illegal and unjustified on the part of the respondents. The applicant preferred an appeal to the respondent No.3 but the same was also dismissed. Since the sickness certificates submitted by the applicant had been illegally rejected, the period of absence should not be treated as 'dies non'. Therefore she prayed for setting aside the impugned order annex.

A/1.

4. The respondents are contesting the O.A by filing a detailed reply. It is stated that for the first time the applicant submitted her sickness certificate on 18.04.2005 for the period from 16.04.2005 to 30.04.2005 and thereafter she had continuously submitted 13 certificates of medical sickness for different spells and the competent authority regularized certain period as per the permissibility and she was asked to appear before the medical board for getting second opinion about her sickness and this was done as per Government of India decision No. 2 below Rule 19 (2) of the CCS (Leave) Rules 1972. She had been reminded to appear before the Medical Board on 22.08.2005, but she did not respond to it and therefore an explanation was also called about the late submission of medical certificates of sickness for the period from 30.07.2005 to 13.08.2005, which was received on 19.08.2005. She also submitted another sickness certificate for 10 days for the



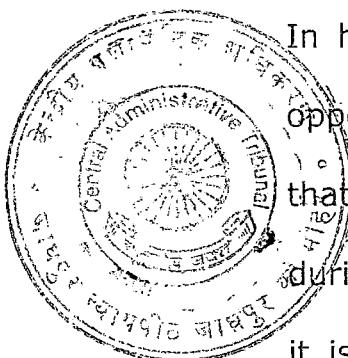
K

II/2

period from 28.09.2005, which was received by the respondents on 11.10.2005. She joined duty at Dungarpur on 24.10.2005 after submitting Fitness certificate dated 13.10.2005. Therefore her explanation was called for the delay in submitting medical certificates of illness but she did not submit any reply. Accordingly the period from 01.07.2005 to 23.10.2005 was treated as dies non. It is also submitted that Director of Postal Services, Southern Region, Rajasthan, Ajmer rejected her appeal. It is denied that there is any gender bias against the applicant. Since the applicant neither appeared before the medical board nor submitted her sickness certificates in time for the periods in question, she has been rightly imposed 'dies non'.

5. We have heard the learned counsel for both the parties and perused records and documents very carefully. A perusal of Annex. A.1 shows that the Appellate Authority has also found that the applicant has submitted her medical certificates with considerable delay after the explanation was asked from her and after perusal of the same the Disciplinary Authority had rightly imposed the 'dies non' on the applicant for the period of absence.

In her appeal she had contended that she was not given proper opportunity. It is also clear from the impugned order Annex. A/1 that the applicant had been paid salary for the period of sickness during which she had submitted the sickness certificate in time and it is only other periods during which she had not submitted the medical certificates in time had been treated as 'dies non'.



A handwritten signature consisting of the letters 'Ku' in cursive script.

6. We are of the view that the applicant had been given proper opportunity to explain as to why she had not submitted the sickness certificates in time. The explanation given by her is not satisfactory and she also did not appear before the medical board for getting the second opinion as directed by the respondents. It is also seen that the Disciplinary Authority and the Appellate Authority imposed 'dies non' only for the reason that neither she submitted her sickness certificates in time nor she appeared before the medical board for second opinion as directed. She was paid salary for the permissible periods during which she submitted her sickness certificates in time. Therefore, we do not find any merit in this case. Accordingly the O.A dismissed. No costs.



Tarsem Lal
(Tarsem Lal)
Administrative Member

Kuldeep Singh
(Kuldeep Singh)
Vice Chairman.

JSV

For OA

डॉ. श. (प्रकाश) नियमावली के नियम 22 के अन्तर्गत निःशुल्क प्राप्त
CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR

I/14

Review Application No.10/2007
in
Original Application No.275/2006

Date of decision: 17.09.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. Tarsem Lal, Administrative Member.

Smt: Sushila Somani, W/o Shri Pushkar Lal Somani, aged about 45 years, r/o C 59 Bapu Nagar Road, 2 Senti West, Chittorgarh, (Presently working as PA SBCO, Head Post Office Dungarpur)

Applicant/Applicant.

Mr. N.R. Goswami, : Counsel for the applicant.

VERSUS



1. Union of India through the Secretary, Department of Post & Telegraph, Ministry of Communications Government of India, Dak Bhawan, New Delhi.
2. The Post Master General, Rajasthan Southern region, Ajmer 305 006
3. The Director Postal Services, Rajasthan Southern Region, Ajmer 305 006.
4. Shri T.R. Meena, Superintendent of Post Offices, Dungarpur Division, Dungarpur 314 001.

: Respondents/Respondents.

ORDER

Per Mr. Kuldip Singh, Vice Chairman:

The present Review Application has been filed by the applicant in O.A. No. 275/2006 for reviewing the order dated 13.07.2007.

2. O.A. No. 275/2006 was heard by us on 13.07.2007 and the following order was passed in open court:-

COMPARED &
CHECKED
O/A 275/

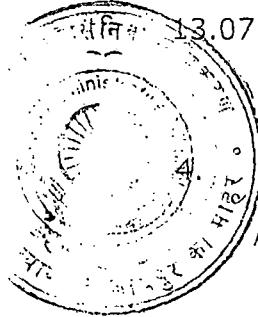
II/15

" Heard. O.A stands disposed of by a separate order for the reasons recorded therein".

Thereafter detailed order was dictated dismissing the O.A.

3. Now the applicant has come up with the present review application on the ground that while pronouncing the order in open court it was allowed and the order Annex. A/1 to the O.A was quashed and set aside in presence of the both counsel and when the copy of the order is received the application was found dismissed. Further when the respondents had stated the reply that the applicant had submitted her applications under sickness belatedly, the applicant has not chosen to rebut the same by filing rejoinder and therefore now she cannot turn round and state that medical certificate can be presented only after getting relieved of sickness. According to CCS (Leave) Rules, 1972, only fitness certificate to resume duty could be submitted at the time of joining duty and the sickness certificate ought to have been submitted immediately after suffering from illness. Therefore, we are of the view that no grounds were made for reviewing the order dated

13.07.2007.

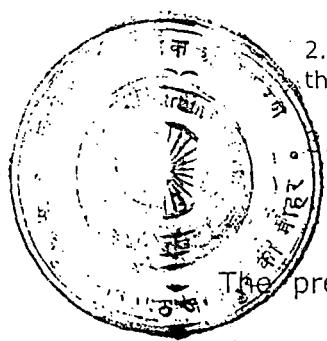


Further Order 47 of the CPC reads as under:

A party aggrieved by a decree or a decision specified in clause (a) (b) or (c) of sub rule (1) may apply for a review in any of the following cases:-

1. On the ground of the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the party or could not be produced by him at the time when the decree was passed or order made; or

II/18



2. on account of some mistake or error apparent on the face of the record; or
for any other sufficient reason."

The present Review Application does not satisfy any of the three reasons mentioned above. The learned counsel for the applicant, out of curiosity would have informed the applicant on 13.07.2007 that the O.A has been allowed by the Tribunal, and may be under some misconception. But that by itself cannot be a valid ground to review our order dated 13.07.2007. Therefore there is no merit in this Review Application. Accordingly it is dismissed by way of circulation.

Sd/-
[TARSEM LAL]
MEMBER(J)

Sd/-
[Kuldeep Singh]
Vice Chairman

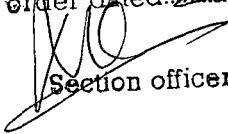
jsv

CERTIFIED TRUE COPY
Dated 25-9-2007

62-1

गनुभाग अधिकारी (न्याय.)
Section Officer (Judi.)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
जोधपुर न्यायालय, जोधपुर
Jodhpur Bench, Jodhpur.

Part II and III destroyed
in my presence on 16/3/1974
under the supervision of
Section officer (1) as per
order dated 26/3/1974


Section officer (Records)