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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 137/2010
JODHPUR THIS IS THE 22nd November, 2010**

CORAM:

HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER

HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

Bhera Ram S/o Shri Jamuna Ram, aged about 52 years, by caste Bhil (ST), R/o Bhil Basti, Opposite Police Station, Pokharan. Office Address:- Fatehgarh Post Office, employed on the post of SPM.

....Applicant.

(Advocate: Mr. S.P. Singh for Applicant)

VERSUS

1. Union of India through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Director of Postal Services, O/o the PMG (W) Region, Jodhpur.
4. Senior Superintendent of Post Offices, Jodhpur Division, Jodhpur.

.... Respondents.

(Advocate: Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.)

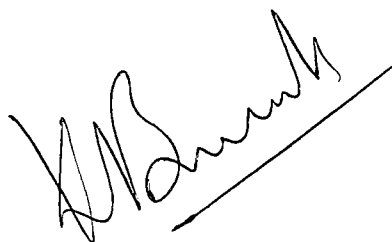
ORDER (ORAL)

The applicant has approached this Bench of the Tribunal seeking regularization of the period from 09.01.2009 to 05.05.2009, and for payment of arrears of pay and allowance during the said period, by which he was unjustly kept under suspension vide Annexure-A/1 order 09.01.2009, and thereafter vide Annexure-A/2 order dated 05.05.2009, his suspension was revoked.



2. The matter relates to non functioning of the computer while the applicant was in-charge, his reply seems to be that he had already informed the concerned and appropriate persons in writing as well as orally. It seems that the System Manager Shri Rakesh Dadhich and the then System Manager Shri Binay Kumar Khatri had attempted to repair the system but they could not succeed. It would appear that on failure of the concerned officer, the applicant who is the Sub Postmaster is being penalized for their failure in not rectifying the mistake in the computers, whereas he is not responsible for that, thus, we are unable to agree with the rationale for suspension which in the circumstances of the case can only be looked upon as a punishment. We do not find that there is any fault or lacunae on the part of the applicant for computer non functioning. He is not technically trained to rectify the mistakes, which occurs in the computer, and so he reported to the concerned officers to repair the computer system.

3. At this juncture, a letter of the Sr. Superintendent of Post Offices, Jodhpur Division, Jodhpur vide Memo No.B2/6-10/08-09/KW dated 17.09.2010 is placed before us by which it is stipulated that the period of suspension shall be treated as spent on duty for all purpose. It is also stated in this letter that the period w.e.f. 10.01.2009 to 05.05.2009 be granted as leave of any kind due and admissible to him. The said order dated 17.09.2010 produced by the applicant shall be taken on record.




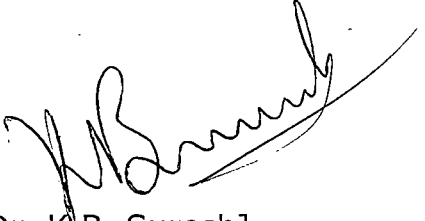
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4. The respondents have not filed any reply till now, in spite of repeated opportunities being given to them. Therefore, the following orders are issued:-

- (a) The applicant cannot be held responsible for not functioning of the computers, even if there be direct control of the applicant.
- (b) The suspension order Annexure-A/1 dated 09.01.2009, therefore, is bad in law and unjust.
- (c) The order dated 17.09.2010 is correct to the extent that the period from 10.01.2009 to 05.05.2009 should be treated as spent on duty for all purpose.
- (d) But the addition in it to the extent that the period from 10.01.2009 to 05.05.2009 is to be taken as leave of any kind due and admissible to him, is illegal and duty and leave cannot go together.

Therefore, the period from 10.01.2009 to 05.05.2009 shall be considered as spent on duty as nobody can be on duty simultaneously alongwith leave and full pay and allowances for the said period shall be made available to the applicant within a period of one month from the date of receipt of a copy of this order. Accordingly, O.A. is allowed to the extent indicated above. There shall be no order as to costs.


[Sudhir Kumar]
Administrative Member


[Dr. K.B. Suresh]
Judicial Member

दिनांक 11/11/15 के अद्यतनानुसार
मेरी उपस्थिति में दिनांक 12/11/15
को भाग-II के III चरण में किया गया।

अनुमानित तिथि
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर