

In the Central Administrative Tribunal
Calcutta Bench

OA 994/97

10-9-2004

Present : Hon'ble Mr.N.D. Dayal, Member(A)

Sudarsan Bhandari

-Vs-

Posts

For the applicant : Mr. S.K. Dutta, Counsel

For the respondents : Mr.B. Mukherjee, Counsel

ORDER

Mr.N.D. Dayal, Member(A)

Upon hearing the learned counsel for both the parties and perusal of the pleadings, it appears that the applicant was appointed as EDBPM, Goalara Branch Post Office on 21-3-80 on provisional basis. After a service of more than 17 years on 9-6-97 he was directed to resign from the post of EDBPM or the post of School Teacher in Government School which job he appears to have also taken up. The working hours of the School which were from 1100 hrs. to 1600 hours were clashing with the working hours of the Branch Post Office which were from 0900 hours to 1300 hours. Since the applicant did not resign, by order dated 8-7-97 he was placed under put off duty and Departmental Proceedings were contemplated against him. Subsequently, he was asked to handover the charge of the Branch Post Office to another employee but he did not comply. On 24-7-97 an FIR was lodged against the applicant in the Court of Learned SDJM, Diamond Harbour under Sec 409 of IPC but the applicant was finally acquitted in November, 2003. In the meanwhile, it seems the applicant remained in limbo in terms of orders of the respondents dated 8-7-97 by which Departmental Proceedings were contemplated against him and he was placed on put off duty.

2. The learned counsel for the respondents even on instruction has been unable to indicate the action taken by way of Departmental Proceedings. It is however pointed out by him that as there was no Government instruction on payment of such subsistence allowance

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(compensation) at that point of time, no decision could be taken in this regard and the applicant was not eligible to get the same. In fact, it was made clear in the order dated 8-7-97 that no pay and allowances would be payable during put off duty.

3. The learned counsel for the applicant has pointed out that subsequently in the year 1998 the Department promulgated orders regarding such allowance to ED Agents during put off duty. It is further emphasised that the applicant has not been terminated from service by any disciplinary action all these years and should be reinstated after his acquittal by Court of Ld. SDJM.

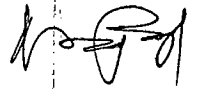
4. The learned counsel for the respondents has drawn my attention to the relevant orders on page 98 of Swamy's - Postal Gramin Dak Sevak, 9th Edn. 2004, regarding teachers being appointed as ED Agents without affecting official duties and only in exceptional circumstances. It is seen that this is an order of 1992 and so would not apply to the appointment of the applicant but may be relevant during service.

5. On a specific query to the learned counsel for the applicant, it has been clarified by the applicant who is present in Court that he is still continuing his job as School Teacher as before, While it is evident that the applicant cannot do both the jobs as the timings are clashing, Now that seven years have passed it is also not known whether the same post is still vacant or not. In any case the applicant has remained on put off duty for 7 years without any final decision.

6. In these facts and circumstances, the respondents are directed to examine the case of the applicant in terms of the relevant regulations and orders including Rule 12 on put off duty and Rule at p.98 of Swamy's Publication mentioned above regarding appointment of teachers as ED Agents as also keeping in view the judgement delivered by the learned SDJM, Diamond Harbour, and having decided whether the applicant is to be reengaged on duty or otherwise take further steps

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accordingly. In case any allowances should become admissible to him the same should be released. The above exercise be completed within a period of four months from the date of communication of this order. The application is disposed of accordingly. No costs.



Member(A)