

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

No. O.A.1279 of 1997

PRESENT: HON'BLE MR. B.N. SOM, VICE-CHAIRMAN(A)
HON'BLE MR. ASHOK S. KARAMADI, MEMBER(J)

TARUN KR. SINGHA MAHAPATRA

Vs.

1. Union of India, through the Secretary, Ministry of Communication, Dok Bhavan, New Delhi-1
2. The Post Master General, Department of Post and Telegraph, West Bengal Circle, Yogayog Bhavan, Calcutta-1
3. The Superintendent of Post Offices, Purulia Division, P.O. & District – Purulia.
4. The Post Master of Purulia Post Office, P.O. & District – Purulia.

For the Applicant : Mr. A.K. Banerjee, Counsel
Mr. S.N. Chattopadhyay, Counsel

For the Respondents : Mr. B. Mukherjee, Counsel

Heard On : 2.08.2005

Date of Order: 05.08.2005

ORDER

MR. ASHOK S. KARAMADI, J.M.:-

This O.A. was filed under Section 19 of the A.T. Act, 1985 by the applicant seeking for the following reliefs:-

- (a) An order be passed directing the respondents to rescind, revoke, cancel and/or to withdraw the impugned order of put off from duty issued against the applicant and the charge-sheet by Memo. No. A-Jamtoria dated at Purulia the 28.1./24.4.1986 issued by the Superintended of Post Office, Purulia Division, Purulia and the Disiplinary proceedings and to reinstate the applicant in service and to pay the arrears of salary, increments and other consequential benefits arising thereto.
- (b) An order be passed directing the respondents to produce all the records of the case relating to the matter before the Hon'ble Tribunal, so that conscionable justice may be administered therein.
- (c) And to pass such other or further order or orders as the Hon'ble Tribunal may deem fit and proper."

The brief facts of the case which are necessary for the disposal of the application are as under:-

It is stated that the applicant was appointed as Extra Department Branch Postmaster (EDBPM) in Jamtoria Branch Post Office under Man Bazar Sub-Postoffice within P.S. Man Bazar (now Boro) in the District of Purulia in the year 1971. The applicant was put off from duty in the year 1974. The impugned order of put off from duty was issued to the applicant. Applicant was furnished with a Charge-sheet by Memo No.A-Jamtoria dated at Purulia, the 28.1./24.4.86 issued by the Superintendent of Post Offices, Purulia Division, Purulia, whereby the applicant was informed that an enquiry would be held against him under Rule 8 of the P&T EDA(Conduct and Service) Rules 1964 for the alleged charges of unauthorized absence in duty from 11.4.74 to 16.4.1974 during the period of service as an Extra Departmental Branch Post master in Jamtoria Branch Post Office from 22.12.1971 to 11.4.1974 and thereby violated B.O. Rule 50 and 17 of EDA (Conduct and Service) Rules 1964 and also defalcation of Government money amounting to Rs.8035/- from various S.B./CTD Accounts standing open at Jamtotia B/O and also for commission of criminal breach of trust contravening B/O Rule 131 and also failure to maintain absolute integrity and devotion to duty as required under Rule 17 of the EDA(Conduct and Service) Rules, 1964.

2. Criminal case was started against applicant for criminal breach of trust by public servant in respect of Government money under Section 409 I.P.O. and the said Criminal case being G.R. NO.1260 of 1974 was initiated before the Learned Chief Judicial Magistrate, Purulia and that was ultimately transferred to the Learned Judge Special Court Purulia and the said criminal case being renumbered as Special Court case No.3 of 1990 before the Learned Judge, 2nd Special Court, Purulia, on 27.11.1992 the applicant was discharged from his Bailbond by the said order dated 27.11.1992 passed by the Learned Judge, 2nd Special Court, Purulia.

Xerox copy of the said order was annexed to the O.A. as Annexure-B.

3. The applicant stated that Memo No.A-Jamtoria dated at Purulia the 28.1./24.4.1986, charge-sheet was issued by the Superintendent of Post Offices, Purulia Division, Purulia, against the applicant and by the said memo applicant was informed that an enquiry would be held against him under Rule 8 of the P&T

EDA(Conduct and Service) Rules 1964 for the alleged charges of unauthorized absence in duty and defalcation of Government money amounting to Rs.8035/- from various S.B./CTD Accounts and also for Commission of Criminal breach of trust contravening B/O Rule 131. The departmental enquiry was initiated against the applicant and the Post Master of Purulai Post Office was appointed to act as an Enquiry Officer to enquire into the charges leveled against the applicant and by Memo dated 16.8.1986 issued by the Enquiry Officer, applicant was asked to appear before him on 25.8.1986 and the applicant duly appeared before the Enquiry Officer on 25.8.1986 but the said date was deferred to 26.8.1986 and on the said date also the enquiry was adjourned to 30.8.1986. On 30.8.1986, the applicant duly appeared and prayed for defence counsel and the enquiry was also adjourned and the applicant was informed that the next date of holding holding enquiry would be informed to the applicant later on, although no next date of holding enquiry was informed to the applicant as yet.

4. It has been further stated by the applicant that the neither the further date of enquiry nor the fate of said enquiry proceedings has been furnished to the applicant although more than 10 years have passed. The Departmental Authority has not taken any steps to conclude the Departmental proceedings within target date and by efflux of time the charges contained in the Memorandum of charges have become stale and such enquiry cannot be proceeded with after the lapse of so many years. Applicant further states that the order of put off from duty was issued against the applicant in the year 1974, but the Departmental enquiry proceedings was started against applicant in the year 1986 and even after passing more than 10 years the said enquiry proceedings have not reached to the stage of final hearing. The Departmental authorities are acting with an ulterior motive is deliberately delaying in finalization of the enquiry proceedings so that the applicant cannot be reinstated in service to his post and no steps have yet been taken by the Departmental authority concerned to conclude the enquiry proceedings.

5. The respondents have filed the reply. In the reply statement, the facts are admitted. The respondents have stated that the disciplinary proceedings could not be

completed due to want of records which were lost from Police Custody and further stated that as per the order of the Court, the applicant was freed from the Bailbond only not from the charges and the enquiry could not be concluded due to unavoidable circumstances though the Board of enquiry was set up and the case was Sub-Judice and the Disciplinary Authority (Deptl.) was not in a position to conclude the enquiry. Basing on these submission, they sought for dismissal of the application.

6. We have heard ld. counsel for both parties and perused the pleadings and materials on record.

7. The question that arises for our consideration is that whether the action of the respondents is just and proper against the applicant in not concluding the departmental proceedings. As can be seen from the records that it is an admitted fact that the order of put off duty was passed in the year 1974 and also the charges against the applicant i.e. (1) Unauthorized absence (2) defalcation of Government Money and that the criminal proceedings were pending against the applicant.

8. The contention of the applicant is that the enquiry proceeding has not yet been concluded and no proper steps have been taken by the respondents to conclude the enquiry proceedings even though it was brought to the notice of the respondents that the criminal case pending against him had ended by order dated 27.11.92 passed by the Learned Judge, Second Special Court, Purulia and he was discharged.

9. The counsel for the respondents submitted that in view of the criminal proceedings pending against the applicant and due to unavoidable circumstances even though the board of enquiry was set up, it could not complete the enquiry and that the order passed by the Court was only with regard to his discharge from his bailbond only but the disciplinary enquiry proceeding was pending and, therefore the applicant could not be considered for reinstatement.

10. It is an admitted fact that the documents produced by the applicant with regard to the Criminal case proceedings against the applicant vide order dated 27.11.1992 reads as follows:-

"27.11.92. Accused Tarun Singh Mahapatra on bail is present. Today is fixed for consideration of chare if any and production of the C.D.

The ld. P.P. in charge is found absent on call. C.D. also is not produced today. In view of the previous order there is no scope for granting any adjournment suo motu in this case.

The accd. is, therefore, discharged from his bail bond.

Sd/- P.N. Chakraborty,
Judge, 2nd Special Court
PURULIA"

11. So it is clear from the above order, the accused is not charged in a criminal case for any offence for trial and on the other hand the accused(applicant) was discharged. Even though this order was passed in the year 1992 and thereafter it was brought to the notice of the respondents, the respondents have not taken any steps to consider the case of the applicant. Failing to do so, has resulted in denial of justice to the applicant. On the other hand, the contention of the respondents is that the order passed is only regarding the discharge of bailbond cannot be accepted and also the contention of the respondents that due to unavoidable circumstances, the enquiry could not be completed though the enquiry was set up.

12. We do not find good reasons to accept the contention of the ld. counsel for the respondents regarding delay in completing the enquiry against the applicant. In the absence of proper and genuine grounds, the enquiry which was initiated against the applicant cannot said to be continued for years together. This conduct on the part of the respondents is not reasonable. Having regard to the facts and circumstances of the case, we are of the opinion that the conduct of the respondents should be deprecated. For the reasons stated above, we allow this application and set aside the order Memo No.A- Jamtoria dated at Purulia the 28.1./24.4.1986.

13. We direct the respondents to reinstate the applicant in service immediately after receipt of copy of this order. No order as to costs.


MEMBER(J)


VICE-CHAIRMAN(A)