

In The Central Administrative Tribunal
Calcutta Bench

OA.1382 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

Nirode Baran Biswas

.... Applicant

- VS -

- 1) Union of India service through the Secretary, M/o Communications, D/o Posts, Dak Bhawan, New Delhi.
- 2) Chief Postmaster General, West Bengal Circle, Yogayog Bhavan, Calcutta-12.
- 3) Superintendent Of Post Office, North Nadia Division, P.O. Krishnagar, Nadia.

.... Respondents

For the Applicant : Mr. N. Bhattacharjee, Advocate

For the Respondents: Mr. B. Mukherjee, Advocate.

Heard on : 5-5-2000

Date of Order : 5-5-2000

ORDER

D. PURKAYASTHA, JM

Heard Ld. Advocates for both the parties. In this case the applicant sought for the following directions :-

- i) To regularise the period of suspension from 26.8.92 to 9.9.93 in accordance with the FR-55 by granting leave due and admissible.
- ii) To draw increments during the period the applicant rendered services as P.O. Krishnagar from 9.9.93 to 30.4.97.
- iii) To draw and disburse the amount of increments from 9.9.93 to 30.4.97 with interest @18% from 9.9.93 upto the date of payment.
- iv) To recalculate the amount of pension, DCRG, Leave encashment on the basis of revised pay after drawal of increments and draw and disburse the arrears together with an interest @ 18% and also other reliefs.

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2. According to the applicant, the disciplinary proceeding was concluded and he had been compulsorily retired from service vide order dated 25.4.1997 (Annexure-A6 to the application). It is also alleged by the applicant that he was placed under suspension vide order dated 26.8.1992 and subsequently the suspension order was revoked vide order dated 2.9.93. Being aggrieved by the action and inaction on the part of the respondents, the applicant made representation to the concerned authority on 7.5.1997 (Annexure-A9 to the application). Thereafter, he filed this application before this Tribunal on 8.12.97 since respondents did not dispose of ~~the~~ representation of the applicant.

3. Id. Advocate Mr. Bhattacharjee on behalf of the applicant submits that applicant is entitled to get all reliefs as sought for in the application. Mr. Bhattacharjee also submits that the respondents have not considered the representation of the applicant which is pending before the authority. He also refers to the provision of sub-rule 5 of FR-54 which provides that if the govt. servant so desires such authority may direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to the government servant.

4. Id. Advocate Mr. Mukherjee on behalf of the respondents submits that the respondents acted in accordance with the rules in this case and there is no infirmity and irregularity in the matter of passing order in this case as alleged by the applicant. Mr. Mukherjee also submits that the representation is pending before the concerned authority but before disposal of the said representation, the applicant approached this Tribunal by filing this application seeking the aforesaid reliefs. Therefore, application should be dismissed.

5. We find that the representation has been filed by the applicant on 7.5.1997 and the present O.A. has been filed on 18.12.1997 i.e. after 7 (seven) months from the date of filing of the representation and respondents did not dispose of the said representation

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till date due to pendency of this case. Since the representation of the applicant has not been disposed of by the authority, therefore, we find that it would be appropriate on our part to direct the respondents to consider the case of the applicant and treat the present application as a part of the representation of the applicant dated ^{✓ after taking into consideration & review of FRS 4} 7.5.1997 with a reasoned and speaking order within three months from the date of communication of this order. Accordingly, application is disposed of.

G.S. Maingi
5.5.2001

(G.S. Maingi)
Member (A)

D.P. Purkayastha
5.5.2001

(D. Purkayastha)
Member (J)

DKN