

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 47 of 2006

Wednesday, this the 13th day of December, 2006

CORAM :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

Mayalakshmi.K.S.
Postal Assistant, Kayamkulam H.O,
Alleppey District

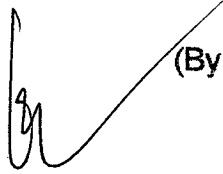
... Applicant.

(By Advocate Mr. C S G Nair)

v e r s u s

1. Superintendent of Post Offices
Mavelikara
2. Director of Postal Services,
Office of the Post Master General,
Central Region, Cochin-18
3. Post Master General,
Central Region, Cochin-18
4. Chief Post Master General,
Trivandrum
5. Union of India, represented by
Secretary, Department of Posts,
Sanchar Bhawan, New Delhi
6. Raveendran Pillai.R
Assistant Director (Tech.),
Office of the Chief Post Master General,
Trivandrum

... Respondents.

 (By Advocate Mr. T.P.M. Ibrahim Khan, SCGSC)

(The Original Application having been heard on 13.12.06, this Tribunal on the same day delivered the following):

ORDER
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant is aggrieved by Annexure A/3 order dated 20.4.2005 whereby a warning memo dated 17.8.04 issued to her for having interest to MIS Account holder beyond maturity date for nine months was entered in her Annual Confidential Report for the year 2004-05.

2. The facts of the case are that the applicant while working as Postal Assistant at Chingoli Sub Post Office had by mistake, paid to the depositor concerned interest amount for the period beyond the maturity date for nine months. But on locating the mistake, the said amount was sought to be recovered from the depositor. The depositor in turn made a complaint to the higher authorities which was enquired into and ultimately the fact that the depositor was not entitled to interest beyond maturity date, was confirmed and from the depositor's account the excess interest was recovered at the time of closing of the account. Thus, the location of the mistake and the attempts made to get the amount refunded was at the instance of the applicant herself i.e., not as a result any enquiry conducted.

3. The applicant was issued with a warning vide Annexure A/2. This

is the first warning so issued as far as the applicant is concerned in regard to such a mistake.


4. The applicant assails the impugned A/3 order inter alia, on the ground that as per the Department of Personnel & Training O.M. dated 5.6.1981, warning letter issued should not enter in the ACR dossiers save when, even after all such warning or displeasure or reprimand, the officer concerned has not improved.

5. The respondents have contested the O.A. and they have given certain other instances of subsequent period whereby some other warning letters issued.

6. Learned counsel for the applicant submitted that personal animosity is one of the reasons for the 6th respondent to effect adverse entries in the ACR of the applicant. In any event, the said warning being not a repeated one and was first of its kind, as per DOP&T letter dated 5.6.81 stated above, that cannot enter into the ACR.

7. Learned counsel for the respondents invite my attention to paragraph 14 of the reply, which reads as follows:

"14. With regard to para 4(5) it is submitted that instructions issued by Department of Personnel and Administrative Reforms



as per O.M. No. 21011/1/81-Estt(A) dated 5.6.1981 does not prohibit a Reporting Officer from recording warning in ACR (even after issue of the warning there was no improvement seen in the general performance of the official). In the instant case, such an entry was made in the ACR only because the reporting officer felt it necessary to record the warning in the ACR. This was promptly done."

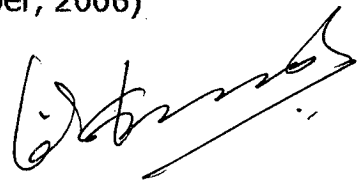
8. Arguments were heard and documents perused. DOP&T instructions are very specific that at the end of the year, the reporting authority, while writing the confidential report of the officer may decide not to make a reference in the confidential report of the officer, if in the opinion of that authority, the performance of the officer reported on after the issue of the warning/displeasure/reprimand, as the case may be, has improved and has been found satisfactory. The impugned A/3 order goes to show that the reporting officer had not at all been dissatisfied with the performance after the error was committed by the applicant on the first occasion and rather he expressed his confidence that the applicant would give him an opportunity to congratulate next year. In these circumstances, since it cannot be said that there is no improvement in the performance of the applicant, in my considered view, the adverse remarks recorded in column 12 of the ACR of the applicant for the year 2004-05 vide Annexure A/3 are without any authority and are in violation of departmental instructions dated 5.6.1981.



9. In the above circumstances, the O.A. is allowed. The adverse remarks entered in column 12 of the ACR of the applicant for the year 2004-05 "severely warned vide memo No. SB/Dlgs/24 dated 17.8.04 for paying interest to MIS Account holder beyond maturity date for 9 months" are hereby expunged.

10. No costs.

(Dated, the 13th December, 2006)



Dr. K B S RAJAN
JUDICIAL MEMBER

cvr.