

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 49 of 2000

Monday, this the 5th day of November, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. B. Ramachandran Nair,
Postal Assistant,
Ettumanur PO, KottayamApplicant

[By Advocate Mr. P.C. Sebastian]

Versus

1. The Director of Postal Services,
Central Region, Kochi - 682 016

2. The Senior Superintendent of Post Offices,
Kottayam Division, Kottayam

3. The Union of India,
Represented by Secretary,
Ministry of Communications,
Department of Posts, New Delhi.Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

The application having been heard on 5-11-2001, the
Tribunal on the same day delivered the following:

O R D E R

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The applicant, a Postal Assistant, was proceeded against under Rule 14 of the CCS (CCA) Rules and was by order dated 24-1-1983 awarded a penalty of removal from service. On appeal the penalty was modified as one of compulsory retirement. The said orders were challenged by the applicant in OA No.758/90. The Tribunal allowed that OA setting aside the impugned orders and granting liberty to the respondents to redo proceedings from the stage of submission of the enquiry report. The enquiry was resumed and again by order dated 14-5-1992 a penalty of compulsory retirement was imposed on the applicant. In appeal the 1st respondent by order dated

30-11-1992 modified the penalty as one of reduction to the minimum of the time scale of pay of Rs.260-480 for a period of five years with cumulative effect and the applicant was reinstated in service with effect from 19-12-1992 by the 2nd respondent's order dated 18-12-1992. The applicant submitted a revision petition. The revisional authority, the Member Postal Services Board, rejected the same by order dated 23-1-1994. The applicant submitted a petition before the Hon'ble President of India on 14-11-1994. The President after consultation with the Union Public Service Commission issued the order dated 20-2-1997 (Annexure A3) setting aside the penalty imposed on the applicant by the revisional authority. As the proceedings against the applicant ultimately by the presidential order resulted in his exoneration, the applicant allegedly with the approval and sanction of the Senior Postmaster, Kottayam prepared a bill for Rs.1,76,564/- being the arrears of pay and allowances for the period during which he was kept out of service. The applicant being the Clerk-in-charge for the preparation of the pay bills prepared the arrears bill. The amount as per the bill was drawn and disbursed to him. However, on an objection raised by the audit the applicant was directed to refund the amount of arrears which he drew, which direction he complied with. The applicant was thereafter called upon to remit an amount of Rs.12,733/- as penal interest, which the applicant did not comply. Thereupon, the applicant was given a chargesheet under Rule 16 of the CCS (CCA) Rules alleging that he was guilty of not showing absolute devotion to duty and integrity in drawing the arrears of pay and allowances while he was not as per orders entitled to draw the same. The applicant denied the charge. However, by order dated 7-12-1998 (Annexure A2) the Senior Superintendent of Post Offices, Kottayam ordered the recovery of Rs.12,733/- from the pay of the applicant in 35 instalments at the rate of

Rs.353/each and in one instalment of Rs.378/-. The appeal submitted by the applicant was rejected by the Postmaster General, Central Region, Kochi by order dated 30-8-1999 (Annexure A1). The applicant has therefore filed this application impugning the orders at Annexure A1 and A2. It is alleged in the application that the applicant was not guilty of any misconduct and as he has not caused any loss to the Government, the recovery of Rs.12,733/from his pay and allowances is illegal.

2. Respondents have filed a reply statement opposing the grant of relief.

3. The applicant has now produced an order dated 6th October, 2000 issued by the Member, Postal Services Board on the revision petition filed by the applicant holding that the applicant was entitled to have the period between 7-6-1982 to 18-12-1992 treated as duty for all purposes and he would be entitled to full pay and allowances for the said period.

4. In view of the fact that by order dated 6th October, 2000 it has been held by the competent authority that the applicant is entitled to full pay and allowances for the period from 7-6-1982 to 18-12-1992, the amount drawn by the applicant has become in order. Pursuant to this order we are informed that the amount of arrears which was remitted back by the applicant has been paid back to him. The only question is whether the interest as is ordered by Annexure A2 order can be lawfully recovered from the applicant. In view of the findings of the Member, Postal Services Board that the period between 7-6-1982 to 18-12-1992 is to be treated as duty for all purposes and the applicant is entitled to full pay and allowances for the entire period, we are of the considered view

that the penalty of recovery of penal interest from the applicant for preparation of the bill as a Bill Clerk cannot be sustained. As no pecuniary loss has been caused by the applicant to the Government, the recovery of penal interest cannot be sustained.

5. In the light of what is stated above, the impugned orders at Annexure A1 and A2 are set aside and the respondents are directed to refund to the applicant the amount recovered from him pursuant to Annexure A2 order.

6. Parties will bear their costs.

Monday, this the 5th day of November, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1: Copy of order No.ST/7-7/89 dt. 30.8.99 issued by the 1st respondent(appellate order)
2. Annexure A2: Copy of Memo No.F6/8/80-91 dt. 7.12.98 issued by the 2nd respondent(Punishment order).
3. Annexure A3: Copy of Order No.F.No.1-18/95 VP dt. 20.2.97 issued by Govt. of India, Ministry of Communication, Dept. of Posts, New Delhi.
4. Annexure A4: Copy of Union Public Service Commission letter No.F3/111/95-S1 dt. 1.11.96 to the Secretary to the Govt. of India, Ministry of Communications, Dept. of Posts, New Delhi.
5. Annexure A5: Copy of the appeal dt. 20.1.99 submitted by applicant to 1st respondent.
6. Annexure A6: True extract of Director General, Posts & Telegraphs letter No.114/176/78-Disc II dt.13.2.1989.
7. Annexure A7: Copy of Order No.C-17013/27/2000-VP dated 6.10.2000 issued by the Member(P) Postal Service Board New Delhi.

RESPONDENT'S ANNEXURE

Nil.

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