

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 500 of 2012**

TUESDAY, this the 15<sup>th</sup> day of September, 2015

**CORAM:**

**Hon'ble Mr. Justice N.K. Balakrishnan, Judicial Member**  
**Hon'ble Mrs. P. Gopinath, Administrative Member**

N.B. Devarajan,  
aged 49 years,  
S/o. Bhaskaran Nair,  
working as Postal Assistant,  
Aroor PO, Residing at  
Sreesilpam House,  
MO Ward, Alappuzha-688 011.

..... **Applicant**

**(By Advocate : Mr. P.C. Sebastian)**

**V e r s u s**

1. The Chief Postmaster General,  
Kerala Circle,  
Thiruvananthapuram – 695 011.
2. The Director of Postal Services,  
Central Region, Kochi – 682 018.
3. The Supdt. of Post Offices,  
Alappuzha Dn.,  
Alappuzha – 688 012.
4. The Union of India,  
represented by Secretary to  
Govt. of India,  
Ministry of Communications,  
Department of Posts,  
New Delhi – 110 001.

..... **Respondents**

**(By Advocate : Mr. T.C. Krishna)**

This application having been heard on 3.9.2015, the Tribunal on

15.09.2015, delivered the following:

**ORDER**

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**Hon'ble Mr. Justice N.K. Balakrishnan, Judicial Member -**

This Original Application has been filed by the applicant seeking a declaration that he is entitled to have the suspension period from 28.9.2007 to 26.9.2008 treated as duty for all purposes including pay and allowances and also for a direction to the respondents to pay full pay and allowances to the applicant for the suspension period.

2. The case of the applicant is stated as under:

2.1. He was working as Postal Assistant, Allapuzha Head Post Office. He was placed under suspension as per Annexure A1 dated 23.8.2007 contemplating disciplinary proceedings against him. He was later reinstated on 27.9.2008. The period of suspension from 28.9.2007 to 26.9.2008 was ordered to be treated as non-duty for all purposes. It was further stated that the pay and allowances during the period of suspension from 28.9.2007 to 26.9.2008 be limited to the subsistence allowance already paid to the applicant. Annexure A2 is the memo of charges issued to the applicant under Rule 14 of the CCS (CCA) Rules, 1965. A detailed inquiry was conducted and on conclusion of the inquiry it was held that the article of charge was not proved against the applicant. That finding was accepted. The applicant was accordingly exonerated in respect of that charge. Hence, according to the applicant he is entitled to have the period of suspension treated as duty for all purposes and for getting the pay and allowances for the said period. Annexure A6 order as per which the period of suspension

was treated as non-duty for all purposes and that the pay and allowances during that period would be limited to subsistence allowance was challenged by filing appeal. That appeal was rejected upholding the order passed by the disciplinary authority. A revision was filed challenging the same as evidenced by Annexure A8. It was dismissed vide Annexure A9 stating that revision petition does not lie against an order under FR54(B).

3. The applicant contends that since he was reinstated pending inquiry and as he was finally exonerated from the charge he was entitled to have that period treated as duty for all purposes.

4. This application is stiffly resisted by the respondents contending as follows:-

4.1. The applicant was placed under suspension with effect from 28.9.2007 in connection with the irregularity in recurring deposit at Mullakkal Post Office at Allapuzha. That suspension was revoked by the suspension review committee on 26.9.2008 and accordingly he rejoined duty on 27.9.2008. The applicant was proceeded against under Rule 14 CCS (CCA) Rules. Pursuant to the representation of the applicant seeking regularisation of the period of suspension Annexure A6 order was issued treating the entire period of suspension as non-duty for all purposes and to restrict the pay and allowances to the subsistence allowance already paid. The applicant was actually trying to mix up the facts in order to mislead this Tribunal. The period of suspension from 28.9.2007 to 26.9.2008 was not

issued pertaining to the misbehaviour/misconduct of the applicant covered by the other memo but it was issued for the alleged irregularity in RD transactions in Mullakkal Post Office. When the applicant was working as SPM, Mullakkal during 26.7.2005 to 31.12.2006, irregularities were noticed with regard to the RD transactions. The suspension was not in respect of the alleged misbehaviour. Therefore, the fact that in the inquiry pertaining to the misbehaviour of the applicant, he was exonerated is no reason to say that his period of suspension should be treated as duty because that suspension has nothing to do with the inquiry against him relating to the alleged misbehaviour on his part.

5. The point for consideration is whether the applicant is entitled to get the period of suspension regularized as claimed by him ?

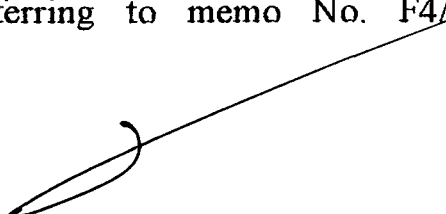
6. It is vehemently argued by the learned counsel for the respondents that the applicant has actually tried to misguide the Tribunal by contending that Annexure A1 suspension order dated 23.8.2007 was pertaining to the misbehaviour at the place of a meeting. Annexure A2 the memorandum of charge dated 30.6.2008 would show that the applicant was permitted to participate in the zonal cultural meet held on 30.7.2007 and he had attended that function. It was stated that at 10.30 hours during the inaugural speech by the Chairperson of Aluva Municipality, who was the chief guest of the function, the applicant interrupted the function by showing obscene hand signals to the chief guest. It was shown in the imputation of charge that his behaviour was in a manner quite unbecoming of a Government servant and

thereby he violated the provisions of Rule 3(1)(iii) of CCS (Conduct) Rules, 1964. This, according to the applicant was the reason for suspending the applicant as per Annexure A1 order dated 23.8.2007. But that contention is stoutly opposed by the respondents pointing out that for the alleged misbehaviour there was no necessity of suspending the applicant at all. It was not stated in Annexure A1 that the suspension order was pertaining to the charge/allegations contained in Annexure A2.

7. It was important to note that there was a serious charge against the applicant as evidenced by Annexure A10. Annexure A10 is the letter accompanying the charge mentioned above dated 25.11.2010. In Annexure A10 the memo number is shown as F4/1/07-08 which is exactly the memo referred to in Annexure A1 F4/1/07-08. Therefore, the contention that Annexure A1 the order of suspension was pertaining to Annexure A2 charge is found to be factually incorrect and is bereft of any merit.

8. Annexure A2 is the memorandum of charge issued to the applicant pertaining to his misbehaviour that occurred at the inaugural function at Aluva in which the number of the proceedings shown is B3/Sports/2007 which is exactly the proceedings number shown in Annexure A3 as per which ultimately the applicant was exonerated holding that the article of charge against him was not proved. Therefore, the attempt made by the applicant to contend that Annexure A1 suspension order was pertaining to the RD irregularities made mention of in Annexure A10 is totally untenable.

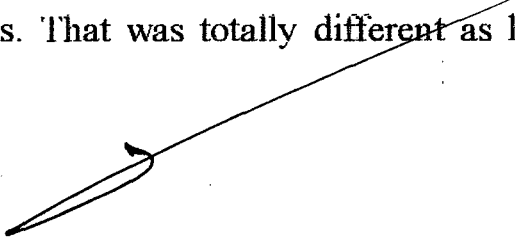
9. It is pointed out that one Smt. M. Leelamma had preferred a complaint to the Superintendent of Post Office, Allapuzha Division on 19.12.2006 alleging malpractice in accounting of monthly deposit in her RD account standing at Allapuzha Mullakkal Post Office. A complaint was given by her pertaining to the same on 24.3.2007 to the Assistant Superintendent of Post Offices, Allapuzha. It was stated that the complainant Smt. Leelamma had deposited through the agent Smt. Vijayalakshmi monthly installments of Rs. 135/- each from 22.2.2003 to 29.3.2006 and that the complainant did not withdraw any amount from the RD account, but the RD account would show that the amounts were withdrawn from the complainants' account. Preliminary inquiry was conducted in the matter. The investigation continued for quite long time especially because the signature of the depositor Smt. Leelalama (who was the complainant therein) had to be got examined with the disputed signatures of the withdrawal forms etc. by an expert. It was mentioned in detail in Annexure A10. It was stated that the Government Examiner of Questioned Documents, Hyderabad was asked as per letter dated 30.1.2008 to compare the signature of the depositor Smt. Leelamma as appearing in SB-3 card for opening the account with the signatures of the depositor appearing in the withdrawal form dated 7.11.2005. Only after getting report of the expert the charge could be laid against the applicant as evidenced by Annexure A10. It is also pertinent to note that in Annexure A7, the order passed by the Director of Postal Services, also it was specifically noted that the suspension mentioned above related to the charges issued under Rule 14 CCS (CCA) Rules, referring to memo No. F4/3/2007-2008, dated



30.7.2010. F4 is the number of the file pertaining to the charges mentioned in Annexure A10. It has nothing to do with Annexure A2. The file No. F4 is mentioned in all the cases relating to the charge and inquiry pertaining to the RD irregularities.

10. Much has been argued by the learned counsel for the applicant that there was no difficulty for the respondents to add the charge covered by Annexure A10 as well along with Annexure A2. There is absolutely no rhyme or reason in the plea so raised. First of all the charge under Annexure A2 is only of misbehaviour which did not invite any action for suspension, whereas the charge under Annexure A10 was a very serious one involving criminal breach of trust, falsification of accounts etc. Therefore, the two charges are distinct and separate arising out of two different causes of action and so it is inconceivable as to how those two charges can be clubbed in one inquiry. Not only that Annexure A10 charge could be framed against the applicant only in 2010 because of the facts that the investigation had to be conducted in detail and the opinion of the expert could be obtained only then. Therefore, the argument so vehemently advanced by the learned counsel for the applicant that inquiry should have been conducted in respect of both charges at the same time is totally unsound and unreasonable.

11. Since the investigation/preliminary inquiry in to the matter had to continue for quite long time, the respondents thought it fit to revoke the order of suspension. That does not mean that it has anything to do with Annexure A2 proceedings. That was totally different as has already been



stated above. In Annexure A6 dated 2.11.2010 it was made clear that the order revoking suspension will be reviewed suo moto as per FR 54(B)(6) on completion of disciplinary proceedings initiated against the applicant.

12. In the course of the argument the learned counsel for the respondents has brought to our notice that the inquiry pursuant to Annexure A10 charge was completed and the disciplinary authority found the applicant guilty of the charges levelled against him and accordingly the pay of the applicant was reduced by two stages from Rs. 12320/- to 11450/- in the pay band of Rs. 5200-20200/- plus Grade Pay of Rs. 2800/- for a period of three years with effect from 1.4.2013. That order was challenged by the applicant before the appellate authority. In the appeal the finding of guilt against the applicant was upheld but the penalty was modified as reduction of pay by two stages for a period of two years and it was further directed that the reduction will not have the effect of postponing future increments of pay.

13. The argument advanced by the learned counsel for the applicant based on Rule 10(5) CCS (CCA) Rules is also misplaced in view of the fact that the records would clearly show that the suspension of the applicant was pertaining to the allegations contained in Annexure A10. Moreover, Rule 10(5)(b) would show that it was only an enabling provision. It empowers the authority competent to place the incumbent under suspension, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension in connection with any disciplinary proceedings other than the one in which the incumbent was suspended.

Since the records would show that the applicant was suspended pertaining to RD irregularities in respect of which Annexure A10 charge was later framed, the arguments to the contrary advanced by the learned counsel for the applicant is found to be bereft of any merit. We find no reason to interfere with Annexure A6 order which was confirmed in appeal by Annexure A7.

14. Hence, this Original Application is dismissed. No order as to costs.

  
**(P. GOPINATH)**  
**ADMINISTRATIVE MEMBER**

  
**(N.K. BALAKRISHNAN)**  
**JUDICIAL MEMBER**

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