

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.526/04

Monday this the 6th day of December 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K.HAJRA, ADMINISTRATIVE MEMBER

P.K.Vasumathy,
D/o.late K.R.Kunju,
Sub Postmaster (Under suspension), Prayar.
Residing at KV Bhavan, Alumpeedika,
Via Prayar, Kollam.

Applicant

(By Advocate Mr.O.V.Radhakrishnan)

Versus

1. Senior Superintendent of Post Offices,
Kollam Postal Division, Kollam.
2. Director of Postal Services (HQ),
O/o. the Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
3. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
4. Union of India represented by its
Secretary, Ministry of Communications,
New Delhi.

Respondents

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

This application having been heard on 6th December 2004
the Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant Sub Postmaster, Prayar under Kollam Postal Division was placed under suspension by Annexure A-1 order dated 8.11.2002 and by order dated 9.4.2003 the amount of subsistence allowance was reviewed and enhanced by 50%. By a notification dated 23.12.2003 Rule 10 of the CCS (CCA) Rules was amended by inserting Sub Rules 6 & 7. The amendment was notified on 3.1.2004 in the Gazette of India. It was provided that the rules would come into effect after a expiry of a period of three months

from the date of publication in the Gazette. Sub Rules 6 & 7 to Rule 10 reads as follows :

- (6). An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority competent to modify or revoke the suspension, before expiry of ninety days from the date of order of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.
- (7). Notwithstanding anything contained in sub rule 5, an order of suspension made or deemed to have been made under sub rules (1) or (2) of this rule shall not be valid after a period ninety days unless it is extended after review, for a further period before the expiry or ninety days.

2. The Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) issued an Office Memorandum dated 7.1.2004 regarding constitution of Review Committees. In terms of the newly incorporated Sub-rules 6 & 7 of the CCS (CCA) Rules all cases of suspension are to be reviewed within ninety days from the date of coming into force of the amended rules and issue of orders by the competent authority either extending or revoking the order of suspension. It is also provided in Sub rule 7 that if no order as required under Sub rule 6 is issued, the order of suspension made or deemed to have been made shall not be valid after a period of ninety days. In the instant case the competent authority has not issued the order as required under Sub rule 6. The applicant has therefore filed this application to set aside Annexure A-1 Memo dated 8.11.2002 declaring that the applicant is entitled to be re-instated into service after the expiry of 90 days immediately on coming into force of Annexure A-4 CCS (CCA) Amendment Rules, 2003 for non-compliance of Sub rule 6 of Rule 10

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by operation of Sub rule 7 of Rule 10 and to issue appropriate direction or order directing the respondents to re-instate the applicant to the post of Sub Postmaster, Prayar with effect from the date of lapsing of Annexure A-1 order dated 8.11.2002 by operation of Sub rule 7 of Rule 10 of the CCS (CCA) Rules.

3. The respondents in their reply statement admit that an order as required under Sub rule 6 of Rule 10 of the CCS (CCA) Rules has not been issued within the prescribed time but attempt to explain the same by stating that it was not intentional and have expressed unconditional apology. However the consequence of failure to pass an order under Sub rule 6 is that the order of suspension would not be further valid. Hence practically there is no defence for the respondents.

4. In the light of what is stated above we allow this application declaring that the suspension of the applicant made by Annexure A-1 order has become inoperative in view of the failure on the part of the competent authority to issue an order as required under Sub rule 6 of Rule 10 of CCS (CCA) Rules. Necessary legal consequences will follow. No order as to costs.

(Dated the 6th day of December 2004)



S.K.HAJRA
ADMINISTRATIVE MEMBER

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A.V.HARIDASAN
VICE CHAIRMAN