

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 528 of 2008

Tuesday, this the 11th day of August, 2009

CORAM:

Hon'ble Dr. K.B.S. Rajan, Judicial Member

Hon'ble Mr. K. George Joseph, Administrative Member

P.Kunhikannan, S/o. Late Pokkan, aged 50 years,
 Residing at Kottara, Gramin Dak Sevak, Mail
 Deliverer, (now removed from service), P.O. Thaikadapuram,
 Nileshwar, Kasaragod District – 671314.

Applicant

(By Advocate – Mr. K. Shri Hari Rao)

V e r s u s

1. The Postmaster General, Northern Region,
 Kerala Circle, Calicut – 673 011.

2. The Superintendent of Post Offices,
 Kasaragod Division, Kasaragod – 671121.

3. The Sub Divisional Inspector, Post Offices,
 Nileshwar Sub Division, Nileshwar, Kasaragod.

4. C.H. Sudhaman, Sub Divisional Inspector of
 Post Offices, Kanhangad Sub Division,
 Kanhangad – 671315 (Enquiry Authority).

5. Union of India, represented by its Secretary,
 Ministry of Communications, New Delhi.

Respondents

[(By Advocate – Mr. M.M. Saidumuhammed (R1-3&5)]

The application having been heard on 11.8.2009, the Tribunal on the
 same day delivered the following:

ORDER

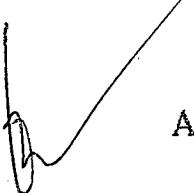
By Hon'ble Dr. K.B.S. Rajan, Judicial Member -

The applicant earlier serving as GDS MD Thaikadapuram, Nileshwar had been proceeded against on account of certain alleged misconduct and was initially removed from service. On revision vide Annexure A-1 order dated 14.3.2001 the Post Master General had directed de novo inquiry from the stage of receipt of list of witnesses to be examined on behalf of the applicant and that inquiry shall be conducted by a different Inquiry Officer. In pursuance to the same further inquiry was conducted and the Disciplinary Authority had issued Annexure A-8 order dated 30.3.2006, whereby the applicant had been removed from service. Annexure A-9 is the appeal preferred by the applicant before the Appellate Authority, the acknowledgment whereof is Annexure A-10. As, for a substantial period, the said appeal was not disposed of, the applicant has approached this Tribunal on various grounds as raised in paragraph 5 of the OA and seeking the following relief:-

"(i) Call for the entire records leading to Annexures A3, A5, A6, A7 and A8 issued by the 3rd, 2nd and 4th respondents and set aside the same.

(ii) To issue appropriate direction or order directing the respondents to reinstate the applicant in service without regard to Annexure A7 and A8.

(iii) To issue direction to the respondents to disburse the put off duty allowance to the applicant from 28.5.99 to 14.3.01 and from 14.3.01 to 30.3.06 with reviewing the allowances as contemplated under proviso to Rule 12(3) of the Gramin Dak Sevak (Conduct and Employment) Rules, 2001."

 As regards payment of ex-gratia [prayer No. (iii)], the same has been paid

vide Annexure R-4]

2. MA No. 663 of 2008 is an application for condonation of delay of 220 days.

3. Respondents have contested the OA and also filed objection to the application for condonation of delay. According to them the appeal has not been received by them and the acknowledgment produced cannot be taken as an authority as to the receipt of the very appeal. As regards condonation of delay respondents have stated that mere fact that the appeal is pending cannot be a ground for condonation of delay.

4. Counsel for the applicant submitted that the appeal was filed by the applicant on time but the same had not been considered. As regards condonation of delay sufficient reasons may be seen from MA No. 663 of 2008.

5. We are satisfied with the reasons given for condonation of delay and accordingly, the MA No. 663 of 2008 is allowed and the delay is condoned.

6. As regards the main matter, as per Section 20 of the Administrative Tribunals Act, statutory remedies are expected to be exhausted and if a statutory appeal has not been decided within six months the applicant could approach this Tribunal. In this case since according to the respondents the

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appeal was not received though sufficient evidence exists for submission of appeal by the applicant on time, we feel that interest of justice would be met if a direction is given to the Appellate Authority viz. the second respondent to consider Annexure A-9 application along with the grounds raised in this OA as supplemental to the appeal and decide the same within a period of two months from the date of receipt of a copy of this order. We order accordingly. In case the applicant is still aggrieved on the decision that may be arrived at by the Appellate Authority, it will be open to him to challenge the same.

7. With the above direction the OA is disposed of. No costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(K.B.S. RAJAN)
JUDICIAL MEMBER

"SA"