

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 606 of 1999

Wednesday, this the 8th day of August, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER  
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. J. Benson,  
Higher Selection Grade II Sorting Assistant,  
R.M.S. Office, Head Record Office,  
Trivandrum. ....Applicant

[By Advocate Mr. George Cherian]

Versus

1. Union of India, represented by its  
Secretary, Department of Post,  
Ministry of Communication,  
Parliament Street, New Delhi.
2. Member (Personnel),  
Postal Services Board,  
New Delhi - 110 001
3. Director of Postal Services,  
Southern Region, Trivandrum-695033
4. Chief Post Master General,  
Kerala Circle, Trivandrum-695033 ....Respondents

[By Advocate Ms. I. Sheela Devi, ACGSC]

The application having been heard on 8-8-2001, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A7 to the extent it  
disallows his request to treat the period of suspension as duty  
for all purposes including promotion under BCR scheme, to  
declare that he is entitled to have his period of suspension  
from 4-8-82 to 1-1-85 treated as duty for all purposes including  
the time bound promotion and to direct the respondents to

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reconsider the request in A6 and to pass appropriate orders treating the period of suspension as on duty for all purposes including promotion under BCR scheme.

2. The applicant was placed under suspension from 4-8-1982 to 2-1-1985 pending disciplinary proceedings against him under Rule 14 of CCS (CCA) Rules, 1965. After enquiry he was imposed the penalty of reducing his pay from Rs.360/- to Rs.332/- for a period of 3 years with effect from 1-1-1985. It was further directed that he was not to earn increments during that period. Against this he submitted an appeal before the 3rd respondent. That appeal was allowed partly reducing the period of reduction from 3 years to 18 months. He came to know that other employees against whom similar penalty was imposed requested to reconsider their punishment and were sympathetically considered by the respondents. Since the penalty imposed on him is a minor penalty, he is entitled to have the period of suspension as on duty for all purposes. A2, A3 and A4 are the orders passed by the authorities concerned on the representations submitted by identically placed employees. Similar treatment is not extended to him.

3. Respondents resist the OA contending that the cases mentioned by the applicant relate to other officials for different nature of misconduct. Individual cases are decided on their own merits and it is only natural that in many cases suspension periods would have been treated as duty. There have been many other cases where such periods have not been treated as duty as well. Such consideration depends upon the nature, circumstances and other aspects of each case. The applicant cannot claim any relief simply because in someone's case the period of suspension was treated as duty. He cannot draw any

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comparison of his case with the cases of other officials. There is no discrimination. Applicant's case was considered on merits.

4. Though in the OA it is stated that since the penalty imposed on the applicant is a minor penalty he is entitled to have the period of suspension as on duty for all purposes, no rule in support this is pressed into service. The only argument advanced by the learned counsel for the applicant is that as per A2, A3 and A4 the period of suspension has been ordered to be treated as qualifying to enable certain incumbents to benefit from the BCR scheme and that benefit is not extended to the applicant. A2 is passed by the Chief Postmaster General. A3 and A4 are passed by the Director of Postal Services, Headquarters, Trivandrum.

5. A7, the impugned order, is issued in response to A6 representation submitted by the applicant to the 2nd respondent, Member (Personnel), Postal Services Board, New Delhi. The third relief sought by the applicant is to direct the respondents to reconsider his request in A6 and to pass appropriate orders treating the period of suspension as on duty for all purposes including promotion under BCR scheme. So, from this relief sought it is quite evident that what the applicant seeks is that the respondents should be directed to reconsider the request of the applicant in A6. At this juncture, it is relevant to note that in A6 the applicant has not raised a ground that there is a discrimination meted out by him for the reason that the benefit granted to other incumbents as per A2, A3 and A4 is not extended to him. So, if it is a case of directing the respondents to reconsider the applicant's request as per A6, the question of looking into A2, A3 and A4 does not arise. A6 was submitted by

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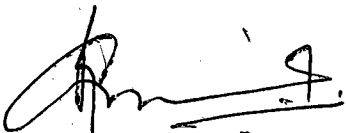
the applicant in the year 1998. A2 was issued in the year 1995. A3 and A4 were issued in the year 1992. So, at the time of submitting A6, A2, A3 and A4 were very much in existence.

6. That apart, respondents have clearly stated that A2, A3 and A4 orders were passed based on the merits of those cases and each case is to be considered on its own merit. The submission of the learned counsel for respondents that the applicant's case was considered on its merits and other cases were considered on the merits of those cases is only to be accepted since each case is to be decided on its own merits.

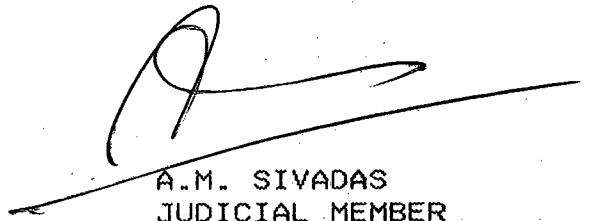
7. If the argument advanced by the learned counsel for the applicant is accepted, it will be a case where the Member (Personnel) is to be directed to follow what the Chief Postmaster General and Director of Postal Services have ordered. It cannot be a case of directing a superior officer to follow what the subordinate officers have done. There is also no case of discrimination brought out. That being so, it cannot be said that the applicant has suffered discrimination in the hands of the department.

8. Accordingly, the Original Application is dismissed. No costs.

Wednesday, this the 8th day of August, 2001



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



A.M. SIVADAS  
JUDICIAL MEMBER

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List of Annexure referred to in this order:

1. A2 True copy of the Order dated 11-7-95 issued in favour of A. Jawahar Khan Sahib by the 4th respondent.
2. A3 True copy of the order dated 15-5-92 issued by the 3rd respondent in respect of Balagopalan Nair.
3. A4 True copy of the order dated 10-6-92 issued to R. Narasimhan by the 3rd respondent.
4. A6 True copy of the petition dated 17-2-98 submitted by the applicant to the 2nd respondent.
5. A7 True copy of the Order dated 15-3-1999 issued by the 2nd respondent.