

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATED: 8.4.93

O.A. 608/92  
O.A. 610/92  
O.A. 678/92  
O.A. 679/92  
O.A. 680/92  
O.A. 684/92

Mrs. Snehaprabha Abraham

Applicant in O.A.  
608/92

M. Dakshayani

Applicant in O.A.  
610/92

Savithri Menon

Applicant in O.A.  
678/92

Mr. P. S. Gurukkal

Applicant in O.A.  
679/92

K. Saraswathy

Applicant in O.A.  
680/92

P. Prabhakaran Nair

Applicant in O.A.  
684/92

Vs.

The Sr. Supdt. of Post Offices  
Calicut Division, Calicut-2 and  
others

Respondents in all  
the six cases

Mr. M.R. Rajendran Nair

Advocate for the  
applicants in all the  
cases

Mr. TPM Ibrahim Khan, ACGSC

Advocate for respon-  
dents in O.A. 608/92

Mr. K.A. Cherian, ACGSC

Advocate for respon-  
dents in O.A. 610/92

Mr. K.V. Raju, ACGSC

Advocate for respon-  
dents in O.A. 679/92

Mr. George Poonthottam, ACGSC

Advocate for respon-  
dents in O.A. 678/92

Mr. C. Kochunni Nair, ACGSC

Advocate for respon-  
dents in O.A. 680/92

Mr. Mathews J. Nedumpara, ACGSC

Advocate for respon-  
dents in O.A. 684/92

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HON'BLE SHRI L. DHARMADAN JUDICIAL MEMBER

&

HON'BLE SHRI R. RANGARAJAN ADMINISTRATIVE MEMBER

Index:

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. To be circulated to all Benches of the Tribunal?

JUDGMENT

HON'BLE SHRI N. DHARMADAN JUDICIAL MEMBER

All these cases have been heard together on consent of the parties in view of the fact that the issue arising in these cases are same. We have disposed of all these cases with a common order in the following manner.

2. The facts as narrated in O.A. 608/92 have been taken for convenience for deciding the basic issue involved in these cases.

3. Applicant is aggrieved by order Annexure-I dated 28.2.92 by which a minor penalty of recovery of a sum of Rs. 21,096/- is being made from the pay of the applicant in 36 instalments. She filed Annexure-II appeal before the Director of Postal Services (the appellate authority).

Since the appellate authority did not grant any stay of recovery of the amount, she filed this application before this Tribunal under section 19 of the Administrative Tribunals' Act for quashing the impugned order and for other consequential benefits.

4. The legal issue arising in this case is interpretation of Rule 16(1) (b) of the CCS (CC&A) Rules which came up for consideration before this Tribunal in O.A. 286/92 and We observed as follows:-

..

" As explained above, sub rule (b) of Rule 16(1) of CCS(CCA) Rules makes it very clear that the disciplinary authority should exercise his discretion whether an enquiry should be conducted or not in a case like this. While taking a decision to impose a punishment against the government employee, even if the delinquent employee does not make any request for conducting any inquiry or for giving an opportunity of being heard, it is obligatory on the part of the disciplinary authority in the interest of fair play and justice to state the reason in the order as to why he has taken such decision not to conduct an inquiry before imposing the punishment. Since such a decision is absent in this case, we are of the view that there is no exercise of discretion of powers by the disciplinary authority in a legal and valid manner and hence, Annexure-III and all other orders passed based on the same are liable to be set aside. Accordingly, we set aside those impugned orders and remit the case back to the disciplinary authority for taking a decision in this case afresh in accordance with law, taking into account the above observations."

that

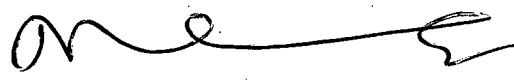
5. In ~~xxxx~~ view of the fact/the appeal is pending before the appellate authority , after hearing learned counsel on both sides, we thought it fit to dispose of the applications accepting the case of the learned counsel for applicant that the cases can be disposed of following the judgment in O.A. 286/92 as extracted above. The appellate authority is seized of the matter and we expect the appellate authority to dispose of the appeals in accordance with law.

6. Learned counsel for applicant submitted that in the light of the judgment of this Tribunal in OA 286/92, the applicants may be given opportunity to supplement the appeal already filed before the appellate authority by additional grounds. This is not opposed by the learned counsel for respondents. The request appears to be fair and we allow the same. We direct the applicants to file supplementary appeal before the appellate authority adding additional grounds

and reliefs within a period of two weeks from the date of receipt of a copy of this judgment. If the applicants as directed above file a supplementary appeal, the same shall be treated as part of appeal already filed by them and will be disposed of in accordance with law after considering the decision rendered by this Tribunal in O.A. 286/92. Till the disposal of the appeals by the appellate authority the interim order passed by this Tribunal on 27.4.92 will be in force.

7. The applications are disposed of as indicated above with the same directions as suitably modified based on facts.

8. There shall be no order as to costs.



(R. RANGARAJAN)  
ADMINISTRATIVE MEMBER

  
8.4.93

(N. DHARMADHAN)  
JUDICIAL MEMBER

8.4.93

kmm