

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 66/98

FRIDAY, THIS THE 2nd DAY OF FEBRUARY, 2001

C O R A M

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

P. Gopinathan Nair
Postal Assistant
Head Post Office
Attingal

..Applicant

By Advocate Mr. Sasidharan Chempazhanthiyil

Vs.

1. Senior Superintendent of Post Offices
North Division,
Thiruvananthapuram.
2. Director of Postal Services
Southern Region
Office of the Chief Postmaster General
Kerala Circle,
Thiruvananthapuram.
3. Director General
Postal Department,
New Delhi.
4. Director
Postal Training Centre,
Madurai-22
5. Union of India represented by the
Secretary to the Government
Ministry of Communications
New Delhi.

..Respondents

By Advocate Mr. P. Vijayakumar, ACGSC

The application having been heard on 2.2.2001, the Tribunal on the same day delivered the following:

O R D E R

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

Applicant seeks to quash A-3 and A-5 and to direct the first respondent to pass fresh orders on the inquiry report in accordance with law.

2. Applicant was working under the respondents. He was chargesheeted by the first respondent for shortage of cash

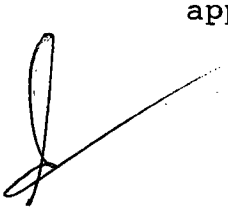


amounting to Rs. 5005/- detected on 17.4.93. Disciplinary proceedings were initiated against him. Enquiry Officer submitted enquiry report as per A-2 dated 18.1.95. He was served with a copy of the report of the enquiry directing him to submit representation if any on the finding of the inquiring authority. Disciplinary authority passed A-3 order on 25.7.96 awarding the penalty of reduction of pay by three stages from Rs. 1390/- to Rs. 1300/- in the time scale of pay of Rs. 975-1660 for a period of 18 months w.e.f. 1.8.86. Applicant being aggrieved by the same preferred appeal to the appellate authority as per A-4. The appellate authority passed A-5 order upholding the penalty awarded to the applicant.

3. Though various grounds are raised in the O.A. the learned counsel appearing for the applicant submitted that only the ground regarding the quantum of penalty is pressed into service.

4. The learned counsel appearing for the applicant submitted that the penalty imposed is disproportionate to the charge proved and has got far-reaching impact of not simply losing of certain amount for a specific period but throughout his life and also after his life on the quantum of family pension.


5. As already stated as per A-3 the penalty imposed is reduction of pay by three stages from Rs. 1390/- to Rs. 1300/- for a period of 18 months w.e.f. 1.8.96. So, the monetary loss would have been at the rate of Rs. 90/- per month for a period of 18 months starting from 1.8.96. The applicant retired from service w.e.f. 31.1.98. A-5 order of



the appellate authority is dated 23.7.97. That being so, the currency of the punishment expired exactly on the date on which the applicant retired.

6. The applicant in A-4 appeal has specifically stated that the effect of the punishment will be far-reaching through out his life as it would affect the pensionary benefits adversely reducing substantially from the monthly pension, etc.

7. The learned counsel appearing for the applicant submitted that there was a delay of 18 months for issuing A-3 order after submission of the enquiry report by the inquiring authority and if the delay had been avoided the applicant would not have faced that situation as faced now. It is true that if A-3 order was passed without waiting for 18 months after the submission of the enquiry report by the inquiring authority, the applicant would not have been placed in a situation as this affecting his pensionary benefits and the punishment would have got in fact a lesser impact. In A-5 the appellate authority has stated that "The argument that the punishment has affected his pensionary benefits etc., do not merit any serious consideration as all the punishments may have such adverse effects." We are unable to subscribe to the view of the appellate authority. The appellate authority ought not have lightly brushed aside this contention of the applicant saying that it does not merit any serious consideration. It requires serious consideration for the fact that the effect of the punishment is not reduction in monetary benefits for a particular period during the service but it continues even after his retirement.



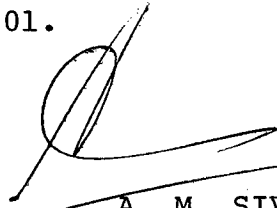
8. In A-5, the appellate authority has even stated that "Hence such administrative delays cannot be taken to any benefit to the appellant." If that is so, it cannot cause any detriment or prejudice to the applicant also. If the delay on the part of the respondents has caused prejudice or detriment to the applicant for no fault of his that is also a factor to be looked into. This aspect has been very casually dealt with by the appellate authority. The appellate authority ought to have considered this aspect with all seriousness it deserved.

9. Accordingly, A-5 order is quashed and the second respondent who has passed A-5 order is directed to consider the appeal afresh keeping in mind the specific grounds raised in the appeal and in the light of the observations contained in this order. Fresh orders shall be passed by the second respondent within two months from the date of receipt of copy of this order. No costs.

Dated the 2nd day of February 1, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A. M. SIVADAS
JUDICIAL MEMBER

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List of Annexures referred in this Order

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| A3 | True copy of the order No. PTC/ADA-1/96 dated 25.7.96 issued by the 1st respondent. |
| A4 | True copy of the appeal issued by the 2nd respondent. |
| A5 | True copy of the order No. ST/B-11/96 dated 23.7.97 issued by the 2nd respondent. |