

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.90/2001

Monday, this the 9th day of September, 2002.

CORAM;

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

P.N.Sabu,
Mailman, Sub Record Office,
Railway Mail Service,
Kottayam. - Applicant

By Advocate Mr Siby J Monippally

Vs

1. Union of India represented by
Member(Personnel),
Postal Services Board,
New Delhi.

2. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.

3. Director of Postal Services,
Trivandrum Division,
Thiruvananthapuram.

4. The Superintendent,
Railway Mail Service,
Trivandrum Division,
Thiruvananthapuram. - Respondents

By Advocate Mr C Rajendran, SCGSC

The application having been heard on 9.9.2002 the Tribunal on the same day delivered the following:

O R D E R

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

The undisputed facts of the case are follows: The applicant, a Mailman was placed under suspension with effect from 1.5.83 pending Rule 14 enquiry. During the course of

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enquiry, the suspension was revoked and he was reinstated in service on 10.12.85. On completion of the enquiry, the disciplinary authority awarded the penalty of removal from service by order dated 21.1.87. In appeal, the appellate authority, DPS (SR) modified the penalty to one of reduction of pay by 4 stages for a period of 5 years by the order dated 29.7.87 and the applicant was reinstated in service on 26.8.87. The applicant filed a revision. The revisional authority finding no reason to interfere with the appellate order, rejected the revision petition by order dated 19/24.10.88. The applicant filed O.A.632/89 for setting aside the order of the revisional authority as also the disciplinary authority. The Tribunal set aside the penalty but gave liberty to the respondents to resume the disciplinary proceedings from the stage of supply of copy of the enquiry report to the applicant. After resuming the proceedings, the disciplinary authority passed a fresh order imposing on the applicant a penalty of reduction of pay by 2 stages for a period of six months with effect from 1.10.90. A notice was given to the applicant on 27.5.91 to show cause as to why the payment to be made to him for the period of suspension should not be confined to the subsistence allowance and the period he was out of service should not be treated as not spent on duty for any purpose, after considering the representation, it was decided that the period of suspension be treated as duty for the purpose of pension limiting the pay and allowances to that of subsistence allowance already paid to him and further directing that the period between removal from service i.e. 3.2.87 to 25.8.87 be treated as duty only for the purpose of

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pension and the period would be counted for future increments. Aggrieved by the decision of the disciplinary authority that the period would not be counted for the purpose of promotion, the applicant submitted an appeal to DPS (SR) which was rejected by order dated 2.7.96. Aggrieved by the decision of the DPS(SR), the applicant submitted a petition to the Chief PMG, Kerala Circle which was rejected by order dated 19.8.97. Therefore, the applicant submitted a petition before the 1st respondent. The 1st respondent has by the impugned order A-4 dated 2.11.99 dismissed the petition. Aggrieved by that the applicant has filed this application. It has been alleged in the application that as the proceedings initiated against the applicant for imposition of penalty under Rule 14 have not culminated in awarding a minor penalty only the period of suspension is required to be regulated as duty for all purposes. In the application reference has been made to the order in O.A.1609/98 in the case of K.N.Soman. It has also been alleged that in the case of persons involved in the same incident for which disciplinary proceedings against them the period of suspension and deemed suspension was treated as duty for all purposes.

2. Respondents in the reply statement contend that the applicant is not entitled to the relief sought and that his case is different from that of Shri Soman.

3. We have carefully gone through the material placed on record and have heard the learned counsel on either side. We had occasion to consider an identical issue involved as in

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this case, viz, whether or not the period of suspension of an employee is to be treated as duty for all purposes if the disciplinary proceedings against him initiated under Rule 14 of the CCS(CCA) Rules finally ends in awarding of a minor penalty in O.A.1609/98, K.N.Soman Vs. Chief PMG, Kerala Circle, Trivandrum and others. In the disciplinary proceedings against the applicant herein as also in the case of Soman were initiated under similar circumstances arising out of a common event. Shri Soman was also awarded a minor penalty though proceedings were initiated for imposition of a major penalty. As the claim of Shri Soman for treating the period under suspension as duty for all purposes was denied, Shri Soman has filed the abovesaid application. The Tribunal by order dated 23.2.2000 of which one of us (Hon'ble Vice Chairman) was a party rejected the contention of respondents, and observed as follows:

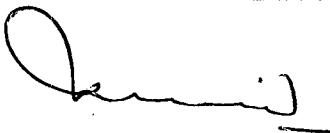
"5. In the instant case though the proceedings was initiated for imposition of a major penalty under Rule 14 of the CCS(CCA) Rules, the penalty imposed was only a major one. Therefore, in accordance with the Government of India instructions, referred supra, the respondents are bound to treat the period from 1.5.83 to 23.9.85, when the applicant was placed under suspension as duty for all purposes and to pay him the arrears of pay and allowances adjusting what has been paid to him as subsistence allowance and to give him all consequential service benefits including consideration for promotion to TBOP after completion of a period of 16 years. The above directions should be complied with and monetary benefits made available to the applicant as expeditiously as possible, at any rate not later than three months from the date of receipt of a copy of this order. There is no order as to costs."

As the issue in this case is identical, we follow the said ruling.

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4. In the result, the application is allowed. The impugned order A-4 is set aside and declaring that the applicant is entitled to get the period of suspension and during which the applicant was kept out of service between 1.5.83 and 10.12.85 and 3.2.87 to 25.8.87 treated as service for all purposes. We direct the respondents to grant the applicant all the consequential benefits and to pay him the arrears of pay and allowances for the said period after deducting what has already been paid to him by way of subsistence allowance. The above direction shall be complied with within a period of two months from the date of receipt of copy of this order. There is no order as to costs.

Dated, the 9th September, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1: True copy of order No.ST/MP-10/96 dated 9.7.96 issued by 2nd respondent -Director of Postal Services, Trivandrum.
2. A-2: True copy of order No.ST/E.6/97 issued by 2nd respondent dated 19.8.97.
3. A-3: True copy of petition of applicant to Member (Personnel) Postal Services Board dated 7.3.98.
4. A-4: True copy of order No.1.120/98 dated 2.11.1999 issued by Member (Personnel) Postal Services Board, New Delhi.
5. A-5: True copy of representation dated 15.9.2000 to Senior Superintendent, Railway Mail Services, Trivandrum.
6. A-6: True copy of order No.K.1/Dis C.32/83-84 issued by 4th respondent dated 22.11.2000.

Respondents' Annexures:

1. R-1: True copy of the order dated 23.2.2000 in OA 1609/98 of the Central Administrative Tribunal, Ernakulam Branch.

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23.9.02