

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF DECISION

:

30.3.90

P R E S E N T

HON'BLE SHRI S.P MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI N.DHARMADAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO.100/90

K.C.Kochummani

.. Applicant

v.

1. Superintendent of Post Offices,
Irinjalakuda Division,
Irinjalakuda-680 121.
2. Director of Postal Services,
Calicut-673 032.
3. Union of India, represented by its Secretary,
Ministry of Communications, New Delhi.

.. Respondents

M/s. O.V Radhakrishnan,
K.Radhamani Amma & N.Nagareesh

.. Counsel for the
applicant

Mr.TPM Ibrahim Khan, ACGSC

.. Counsel for the
respondents

J U D G M E N T

Hon'ble Shri N.Dharmadan, Judicial Member

The applicant is challenging Exts A7 and A9 orders rejecting her claim for allowance for the period of put off duty on account of disciplinary proceedings.

2. The material facts for the disposal of the case ~~are~~^{is} as follows. The applicant while working as Extra Departmental Branch Post Master, Thiruvanchikulam, was put off duty with immediate effect as per Memo No. 80/90 dated 23.3.1988 by the first respondent. She was also served with Ext A2 charge-memo which ^{was} followed with an enquiry. After the conclusion of the enquiry, the Enquiry Officer found her guilty of two of the charges and recommended ^{the} extreme penalty of removal from service. But the disciplinary authority after agreeing with the finding of the enquiry authority decided to take a lenient view, on account of her long service and hoped that she would learn a lesson and

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improve ^{and order is} in future, ^{to} reinstate her with a severe warning as per Ext A5 order dated 31.12.1988.

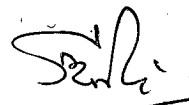
Thereafter the applicant submitted a petition (Ext A6) on 6.6.1989 claiming the allowance as may be eligible to her for the period during which she was put off duty. According to her, she is entitled to allowance from 24.3.1988 to 31.12.1988. This was rejected by the Superintendent as per Ext A7. The applicant filed Ext A8 appeal which was dismissed by the appellate authority by Ext A9. The applicant is challenging both of these orders.

3. When the case was taken up for hearing, both the counsel agreed that this case can be disposed of in the light of our earlier judgment in O.A.K-550/88, which was a case decided by us considering more or less ^a similar issue. But in that case we were mainly considering the question of break in service during the period when the applicant was put off duty. Incidentally in that case the issue of claim for allowance during the period when the applicant was put off duty also arose for consideration. While deciding the issue of break in service we directed the respondents therein to consider ^{the} ⁴ claims of the applicant for pay and allowances during the period in question. However, in this case, we are dissatisfied with the disposal of the appeal by the appellate authority. He has passed the impugned order, Ext A9, solely relying on Rule 9(3) of ED Agents (Conduct and Service) Rules without adverting to the fact that the said rule has been struck down by the Bangalore Bench of the Central Administrative Tribunal in the case reported in Peter J D'Souza v. Supdt of Post Offices, Udipi and others, ((1989) 9 ATC 225). He has also not carefully

considered all the aspects raised by the applicant in the appeal memorandum. However we feel that the interest of justice will be served in this case if we set aside Ext A9 appellate order and send back the matter to the appellate authority i.e, the Director of Postal Services, Calicut, for a reconsideration of the appeal and passing appropriate orders according to law after considering all the relevant aspects. We do so. There will be no order as to costs.


(N.DHARMADAN)
JUDICIAL MEMBER

30.3.90


(S.P. MUKERJI)
VICE CHAIRMAN

30.3.90

n.j.i