

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O.A. No. 129/90  
XXXXXX

XXX

DATE OF DECISION 17-8-1990

Deenamma Philipose Applicant (s)

M/s OV Radhakrishnan, K Radhamani Amma &  
N Nagaresh Advocate for the Applicant (s)

Versus

Senior Superintendent of Post Respondent (s)  
Offices, Alwaye Division & 4 others

Mr TPM Ibrahimkhan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. N Dharmadan, Judicial Member

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

JUDGEMENT

(Mr SP Mukerji, Vice Chairman)

The applicant while working as Extra Departmental

Sub Postmaster, Maneed, Alwaye Division was put off duty on 4.7.1986 in contemplation of disciplinary proceedings. Charges were framed against her and after an enquiry had been held, she was removed from service by the order dated 31.7.1987 passed by the Senior Superintendent of Post Offices. She filed an appeal to the Director of Postal Services and the appeal was rejected. She made a review petition to the Post Master General who allowed the review vide order dated 25.11.1988 at Exbt.A3 with the following conclusions, The portion of the operative/order is abstracted below:

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".... Taking into account the circumstances of the case, it is possible to hold that the disciplinary authority and the appellant authority have correctly arrived at their findings, but, at the same time going by the formal testimony of the depositor, the petitioner deserves being given a circumstantial benefit of that testimony. Upon this consideration alone, I hold in favour of the petitioner, while not exonerating her, that the offence is not conclusively proved. In the result, I allow the appeal, setting aside the penalty of removal. The petitioner should note that in the event of her coming up for adverse notice any time in future, she will attract a severe penalty." (emphasis added)

On the basis of the aforesaid order, the applicant was reinstated by the order dated 21.12.1988 and she joined on 29.12.1988. The relief claimed by her in this application is that she should be paid full pay and allowances not only for the period of put off duty between 4.7.1986 and 31.7.1987, but also for the period of removal i.e. from 31.7.1987 to the date of her joining on 29.12.1988, as claimed by her in her representation at Exbt.A5. That representation was rejected by the respondents vide order dated 20.6.1989 at Exbt.A6. The facts and law in this case as argued upon by the learned counsel for both the parties should not detain us very much as they are clear. The Post Master General in the order as abstracted above had not clearly exonerated the applicant of the charges but nevertheless had set aside the penalty of removal. The consequence of the setting aside of the penalty of removal is that in the eye of law the order of removal which took effect from 31.7.1987 does no more exist. Accordingly, the applicant has a right to claim pay and allowances as admissible to her between the date of her removal and the date of her reinstatement on 29.12.1988. As regards the period of put off duty

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between 4.7.1986 and the date of removal on 31.7.1987, since not less than three authorities did not exonerate her completely, we think that she is not entitled to any pay and allowances during that period. The case of the applicant for these periods had been considered by the respondents on her representation at Exbt.A5 and rejected on the above ground by the impugned order dated 20.6.1989 at Exbt.A6.

2. In the facts and circumstances, we allow the application in part and direct the respondents to make payment of pay and allowances as admissible to the applicant from the date of her removal and the date of her reinstatement on 29.12.1988. Action on the above lines should be completed within a period of three months from the date of communication of the order. There will be no order as to costs.

  
( N DHARMADAN ) 17.8.90  
JUDICIAL MEMBER

  
S.P. MUKERJI / 17.8.90  
( SP MUKERJI )  
VICE CHAIRMAN

17-8-1990

trs