

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.14/11

Monday this the 14th day of March 2011

C O R A M :

HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER
HON'BLE Mr.A.K.BHARDWAJ, JUDICIAL MEMBER

J.Jayachandran,
S/o.Joshua,
Gramin Dak Sevak Mail Deliverer (GDSMD),
Plamoottukada P.O., Trivandrum District.
Permanent Address Plathotath Puthen Veedu,
Kulathur, Uchakkada P.O., Nayyattinkara,
Trivandrum District.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India represented by the Secretary
to the Government of India,
Ministry of Communications,
(Department of Posts), New Delhi.
2. The Chief Post Master General,
Kerala Circle, Trivandrum.
3. The Senior Superintendent of Post Offices,
Department of Posts, Trivandrum North Division,
Trivandrum – 695 014.

...Respondents

(By Advocate Mr.M.K.Aboobacker,ACGSC)

This application having been heard on 14th March 2011 this Tribunal
on the same day delivered the following :-

ORDER

HON'BLE Mr.A.K.BHARDWAJ, JUDICIAL MEMBER

The applicant has filed the present Original Application No.14/11,
making the following prayers :-



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1. *Declare that the non-feasance on the part of the 3rd respondent to regularise the period of put off duty between 16.9.1999 and 28.11.2007 as one spent on duty with all consequential arrears of time related continuity allowance and arrears thereon is arbitrary, discriminatory, contrary to law and hence, unconstitutional ;*

2. *Direct the respondents to treat the entire period from 16.9.1999 to 27.11.2007 as one spent on duty and direct the respondents further to grant all the consequential benefits of time related continuity allowance, DA thereon, and all other perks as if the applicant had continued on duty ;*

3. *Direct the respondents to pay the applicant interest @ 12% per annum on the delayed payment of arrears of time related continuity allowance and other benefits to be calculated atleast with effect from 1.1.2008 up to the date of full and final payment of the same ;*

4. *Award costs of and incidental to this application ;*

5. *Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.*

2. Briefly stating the facts of the case are that the applicant was working as an Extra Departmental Delivery Agent/Gramin Dak Sevak Mail Deliverer (GDSMD) with effect from 16.9.1989 and was put off from service with effect from 16.9.1999. He was issued a charge sheet dated 30.6.2000 containing the allegation of showing the Registered Letter Nos.40421, 46734 and 46934 delivered to the addressee without actually delivering the same to the correct addressee. Inquiry into the said charges was conducted. Having considered the inquiry report and representation made against it, the Disciplinary Authority imposed the penalty of removal from service on the applicant. The removal order was appealed against unsuccessfully. The Revision Petition preferred against the order passed by the Appellate Authority was also rejected.



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3. Assailing the orders passed by the Disciplinary Authority and also the orders passed in Appeal and Revision Petition, the applicant filed Original Application No.586/04 before this Tribunal. By order dated 30.3.2007, this Tribunal allowed the said Original Application, quashing the aforementioned orders and issuing direction for keeping the applicant under put off till the conclusion of disciplinary proceedings from the stage of making the Government Examiner for Questioned Documents available for examination and cross examination on obtaining his affidavit and permitting the applicant to react to the same. Such decision was to be taken within a period of four months from the date of communication of the order of this Tribunal dated 30.3.2007. The respondents were given liberty to seek extension of time for implementation of the order, if required.

4. After taking steps in compliance of aforementioned order dated 30.3.2007, the Disciplinary Authority passed the order dated 23.11.2007 imposing the minor penalty of censure on the applicant. While passing the said order, the Disciplinary Authority also ordered reinstatement of applicant in service with immediate effect.

5. It is borne out of the record that a compliant case No.542/03 was also pending against the applicant in the Court of Judicial I Class Magistrate – II, Neyyattinkara. The charge against the applicant in the said criminal case was also that while working as Postman (Extra Departmental Delivery Agent-II) at Plamoottukkada P.O., the registered articles received by him for delivering the same to addressee were not delivered to them




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and were delivered to some other person on obtaining forged signatures. By order dated 22.8.2009, the Trial Court acquitted the applicant from the aforementioned charges giving him benefit of doubt.

6. Accordingly, the applicant has filed the present Original Application claiming regularisation of the period of service from 16.9.1999 to 28.11.2007 as spent on duty by him as Extra Departmental Delivery Agent with all consequential benefits with interest at the rate of 12% on the delayed payment of arrears of time related continuity allowance with effect from 1.1.2008.

7. A counter reply dated 8.3.2011 has been filed by the Superintendent of Post Offices, Trivandrum South Division. In the said reply, it is stated that the question of regularisation of put off duty period is a exercise to be carried out by the concerned appointing authority separately. In the reply it is further stated that the respondents are willing to treat the representation dated 17.5.2010 (Annexure A-4 to OA) as a representation submitted to the appropriate authority and dispose of the same as per rules on the subject after giving due notice to the applicant. Para 5 of the counter reply reads as under :-

"5. It is submitted that the question of regularisation of put off duty period is a separate exercise to be carried out by the concerned appointing authority. Here in the case of the applicant, the appointment authority is the Inspector Posts, Neyyattinkara Sub Division, while the representation of the applicant was addressed to this deponent. The disposal of the said representation was delayed as the same happened to be misplaced at this respondent's office. Now that the applicant has approached this Hon'ble Tribunal by filing the instant OA, the respondents are willing to treat the Annexure A-4 representation produced along with the OA as a representation submitted to the



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proper authority and to dispose of the same as per rules on the subject after giving due notice to the applicant, for which, this Hon'ble Tribunal may be pleased to grant a further time of two months."

8. In the aforementioned factual background, the questions arises for determination are :-

1. *When the disciplinary inquiry ended with imposition of minor penalty of censure on the applicant and in criminal trial also he is acquitted with benefit of doubt, whether the period of put off from service can be regularised as spent on duty.*

2. *Whether treatment of period of put off from service as spent on duty would entail payment of TRCA and other benefits to the applicant.*

9. Since we are not deciding the present case on merits, we refrain from commenting upon said issues. However, we would expect the concerned authority to address to the same while deciding the representation dated 17.5.2010 made by the applicant.

10. In the facts and circumstances noted above and also in view of the stand taken by the respondents in para 5 of the counter reply, this Original Application is disposed of with a direction to the respondents to take a decision on the representation dated 17.5.2010 made by the applicant within a period of two months after giving due notice and opportunity of hearing to him in accordance with the rules and procedures prevalent on the subject. No order as to costs.

(Dated this the 14th day of March 2011)


A.K.BHARDWAJ
JUDICIAL MEMBER
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K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER