

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 212 of 1995.

Thursday this the 12th June, 1997.

CORAM:

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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

D. Stephen,
Extra Departmental Delivery Agent,
Pantha Branch P.O.,
Kattakada 695 572, Nedumangad
Postal Sub Division, Kerala.

.. Applicant

(By Advocate Shri Abraham Kurian)

Vs.

1. The Sub Divisional Inspector (Postal)
Nedumangad, 695 541.

2. The Superintendent of Post Offices,
Trivandrum South Division,
Trivandrum -695 003.

3. The Director of Postal Services
(Headquarters), Office of the
Post Master General, Kerala Circle,
Trivandrum-695 033.

4. The Chief Post Master General,
Kerala Postal Circle, Trivandrum.

5. Union of India, represented by
the Secretary, Government of India,
Ministry of Communications,
New Delhi.

.. Respondents

(By Advocate Shri P.R. Ramachandra Menon, ACGSC)

The application having been heard on 12th June 1997,
the Tribunal on the same day delivered the following

ORDER

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, while working as Extra Departmental Delivery Agent (EDDA) in Pantha Branch Post Office, Nedumangad, was put off duty by an order dated 15.5.87. Thereafter, disciplinary proceedings were initiated against the applicant and after several

contd.

stages, the final position which emerged was that by A.1 order dated 15.3.93, the order of termination dated 31.8.87 was set aside, the applicant was deemed to be under put off duty from 15.5.87 and fresh disciplinary proceedings were to be initiated against the applicant. This was done and by A.2 order dated 12.8.93, the disciplinary authority ordered that the applicant be re-instated in service with immediate effect and that the period of put off duty would not be counted as duty for any purpose. The applicant was also debarred from appearing in any examination for promotion to the cadre of Postmen/Postal Assistants/Sorting Assistants for a period of three years. In appeal, A.3 order dated 31.5.94 was passed setting aside the order stating that the period of put off duty will not be counted as duty for any purpose and upholding the punishment of debarring the applicant from appearing in any examination for promotion to the cadre of Postmen etc for a period of three years from the date of re-instatement. The Sub Divisional Inspector, Nedumangad, was also directed to take appropriate steps regarding the manner in which the period of put off duty was to be treated. By A.4 order dated 4.8.94 the period of put off duty of the applicant was ordered not to be counted as duty for any purpose, except for the purpose of reckoning put off period for determining the selection to regular posts.

2. Applicant challenges these orders stating that the order placing him under put off duty with retrospective effect is illegal in terms of various decisions as mentioned in Ground A. Applicant also prays that the penalty imposed be set aside on the ground that there is no such penalty under Rule 7 of the Extra Departmental Agents (Conduct and Service) Rules, 1964, as seen from A.12.

contd.

3. Learned counsel for respondents submits that order A.1 dated 15.3.93 was not challenged in time. Learned counsel for applicant, however, submits that A.1 was not a final order and envisaged initiation of fresh disciplinary proceedings and that the question of challenging A.1, if necessary, would arise only after the completion of the disciplinary proceedings. This contention is well founded and we consider that the application can be disposed of on merits.

4. Learned counsel for respondents submits fairly that the applicant cannot be placed under put off duty with retrospective effect. Therefore, to that extent, the impugned orders cannot stand. We find that this point has been noticed in A.3, but no finding to that effect was given on the ground that the Superintendent of Post Offices has no jurisdiction to review or comment on the orders of the Chief Post Master General.

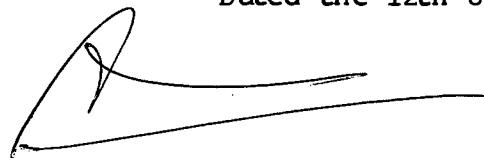
5. We also notice from A.12 that the punishment under Rule 7 has been modified on 22.4.93 which is before the final orders impugned here were passed. The punishment awarded in this case has, therefore, to be in accordance with A.12. According to A.12, the punishment is only one of debarring Extra Departmental Agents from appearing in the recruitment examinations and not an examination for promotion to the cadre of Postmen etc. The punishment here is one of debarring from appearing in an examination for promotion. It is clear that the punishment imposed in A.2 and upheld in A.3 is not a punishment which can be validly imposed under Rule 7 after the issue of A.12. The impugned orders cannot be sustained and we quash A.2 and A.3. As regards A.1, we quash it to the extent that the applicant is deemed to be under put off duty from 15.5.87. As a consequence, we quash A.4 also.

contd.

6. We make it clear that this order will not stand in the way of respondents taking such action as they deem fit with regard to the misconduct alleged against the applicant in accordance with law.

7. The application is disposed of as aforesaid. No costs.

Dated the 12th June, 1997.



AM SIVADAS
JUDICIAL MEMBER



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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List of Annexures:

1. Annexure A-1: True copy of the Review Order No.ST/E-8/92 dated 15/3/1993 issued by the 4th respondent to the applicant.
2. Annexure A-2: True copy of the proceedings No.DA/53(a)/93 dated 12.8.1993 issued by the 1st respondent to the applicant.
3. Annexure A-3 : True copy of the Appellate Order No.B/AP-1/8/93 dated 31/5/1994 issued by the 2nd respondent to the applicant.
4. Annexure A-4: True copy of the Order No.DA/53(a)/93 dated 4/8/94 issued by the 1st respondent to the applicant.
5. Annexure A-12: True copy of the letter No.Vig./Rlgs/93-94 dated 19/5/1993 issued by the 2nd respondent to the All Post Masters/sub Postmasters in Trivandrum(North) Division etc.