

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 337 / 2009

Friday, this the 29th day of October, 2010.

CORAM

HON'BLE Ms. K NOORJEHAN, ADMINISTRATIVE MEMBER

HON'BLE DR K.B.SURESH, JUDICIAL MEMBER

S.Snehalatha,
W/o S Sundaran,
Postman, Thycaud Head Post Office,
Trivandrum South Postal Division,
Trivandrum.Applicant

(By Advocate Mr Shafik M.A)

v.

1. The Senior Superintendent of Post Offices,
Trivandrum South Division,
Trivandrum-695 014.
2. The Director of Postal Services
(Southern Region),
Kerala Circle,
Trivandrum-695 033.
3. The Chief Post Master General,
Kerala Circle,
Trivandrum-695 033.
4. Union of India represented by the
Secretary to Government of India/
Director General, Department of Posts,
Ministry of Communications,
Dak Bhavan, New Delhi-110 001.Respondents

(By Advocate Mr George Joseph, ACGSC)

This application having been finally heard on 20.10.2010, the Tribunal on 29.10.2010 delivered the following:

ORDER

HON'BLE DR K.B.SURESH, JUDICIAL MEMBER

The applicant alleges that discriminatory procedure is adopted in her case since on similar issues while minor proceedings were initiated in identical matter



relating to her major penalty proceedings were initiated. She would claim that she was singled out and placed under suspension and proceeded under Rule 14 only for the reason that she preferred a police complaint against one of the Investigating Officers who attempted sexual harassment on her.

2. Applicant would submit that she was asked to meet the Superintendent in the cabin of the Postmaster and that the Postmaster left immediately after she started writing her statement. She would thus allege that the statement was voluntary but that after she completed her statement, sexual advances was made to her and she lost her mental balance thereby and had to be hospitalised. She would now allege that this complaint has been the genesis for such hunting against her and she had been prejudiced thereby. She would also say that while denying access to 22 additional documents reasonable opportunity was denied to her, there is no adequate evidence to prove that acceptance of money by the applicant as apparently none of the witnesses deposed before the investigators that they gave the money to the applicant.

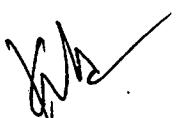
3. We had anxiously looked into the matter and it would appear that part of the blame would lie with authorities themselves who had not made fool proof systems. The absence of daily reconciliation of postage stamps and the entries have resulted in this incident. Notwithstanding the stand of the disciplinary authority that this is a novel way of procedure which they have not foreseen, the lacunae on the part of the authorities cannot be lessened. Much more money is transacted at any Railway station booking counters where also round the clock personnel are on duty, on shift basis where they would book the ticket and cancel the ticket but the system is such that no fraud can take place. So the alleged novelty notwithstanding the failure on the part of the authorities also have contributed to the sorry state of affairs and we hope that immediate action would

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be taken for daily reconciliation of account at each counter so that public money cannot be looted by adventurers. We have gone through the enquiry process adopted by the respondents and apparently it is in consonance with the normal procedure to be adopted in an inquiry but charge raised by the applicant that her prolonged suspension had debilitating effect on her, non revision of subsistence allowance had prejudicially affected her and only minor penalties were imposed on the supervisors and the Exhibit P-21 statement was the result of inducement, if not coercion.

4. But at the same time, the disciplinary authority had considered the matter on the point of view of the existence of the department and held that in the changed and highly competitive scenario when the department is struggling for its existence and when better facilities are provided to customers, it was felt that her retention in the Department in the revenue generation scheme would be against public interest. We do not find anything wrong in the way in which the disciplinary authority as well as appellate authority had approached the issue.

5. But at the same time, the applicant had pointed out that in the case of Smt Anitha which is a similar issue, a differential approach seems to have been taken. We are also aware that it is not specifically found or could be found that the applicant had made material gain. There is a possibility that she might have made a mistake also. The Hon'ble Apex Court had time and again held that accused in same and similar situations must be treated alike as otherwise the fairness of process of trial and judgment would be ~~otherwise~~ lost. We do not want to say anything more on any of the aspects raised in the O.A relating to the sexual harassment angle as the matter is before a competent criminal court. But that allegation itself would not have any bearing in the matter as Exhibit P-21 statement had already been written by her before the genesis of the complaint.

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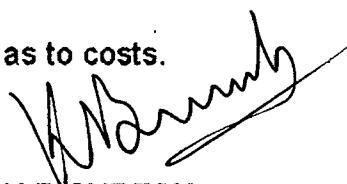
Therefore, that statement would not have been vitiated by the sexual harassment, if at all any. Therefore, we do not want to approach this issue on the point of view of the sexual harassment complaint made by her. But that allegation has no relation or relates to the issue involved. As it would be a matter for her to allege and specifically prove. We are also not impressed by her claims of mental instability as a result of this alleged harassment. But since all these form part and parcel of the trial before a competent Magistrate, we do not want to comment on it.

6. But at the same time the charges seems to be proven in the manner laid down by law and punishment seems to have been inflicted on her which in the normal course would be adequate on the point of view of the department concerned. But we are impressed by the fact that in a similar situation, a differential treatment was meted out to yet another employee Smt Anitha. The applicant would claim that her allegation of sexual harassment would have been viewed as to pressurize the authorities for dropping charges against her. She would thus claim the charges she had made against the senior officer has prejudiced the minds of the officers concerned. The concerned officers are also part and parcel of the employees structure and would be in a better position to assess and analyse the actual situation which arise in an office. Therefore, they would be better judges of what had happened and what might have happened and probably they would have deduced the situation better than any other person. But whether prejudices emanated from their findings of otherwise in relation to the complaint made by the applicant is not seen reflected in both disciplinary authority's order as well as the appellate order. But at the same time, the constitutional mandate of equality and the Apex Court judgments to that effect would indicate that similarly situated persons must be treated similarly. Therefore, in the interest of essential justice, we quash and set aside

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the appellate order. While we retain the finding of guilt against the applicant, we direct the appellate authority to reconsider the issue once again in the light of the findings aforesaid and reduce the quantum of punishment commensurate with the allegations as available in the case of Smt Anitha and pass appropriate orders on it after giving applicant an opportunity of being heard within three months next on receiving a copy of this order.

7. The O.A is allowed to the limited extent as stated above. There shall no order as to costs.



DR K.B.SURESH
JUDICIAL MEMBER



K NOORJEHAN
ADMINISTRATIVE MEMBER

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