

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.404/97

Monday, this the 30th day of June, 1997.

C O R A M

HON'BLE SHRI AV HARIDASAN, VICE CHAIRMAN  
HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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KK Pavithran,  
Extra Departmental Delivery Agent,  
Karuvattoor PO, Kakkodi (Via)  
residing at Vadakkepattu House,  
West Hill PO, Calicut--5.

....Applicant

By Advocate Shri MR Rajendran Nair.

vs

1. The Senior Superintendent of Post Offices,  
Calicut Division, Calicut.
2. The Post Master,  
Calicut Civil Station,  
Calicut.

....Respondents

By Shri S Radhakrishnan, Addl Central Govt Standing Counsel.

The application having been heard on 19th June, 1997,  
the Tribunal delivered the following on 30th June, 97:

O R D E R

HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, while working as an Extra Departmental Chowkidar, West Hill PO, was proceeded against in disciplinary proceedings, which finally ended with the applicant's reinstatement on 4.2.94 and with the award of a minor penalty. It was also ordered that the allowances for the period he was out of service should not be paid. This was challenged by the applicant in OA 787/94 and the Tribunal directed that full wages and allowances be paid to the applicant for the period between 28.12.84 and 9.7.90, when he was illegally kept out of service denying him work. Against the order of the Tribunal, appeal was preferred by

contd.

the respondents and by order dated 30.9.96 in CA 13115-13116 arising out of SLP 14451-52/96, the Supreme Court allowed the appeal and held that the Tribunal was not right in directing payment of back wages and that the respondent is not entitled to back wages. In the meanwhile, by R.1A order dated 27.5.96, applicant had been sanctioned back wages. When the appeal was allowed, the amount paid as back wages of Rs.27,398.00 was sought to be recovered by R.1(B) order dated 14.11.96. Applicant contends that the back wages paid were for the period during which he was illegally kept out of service and that there is no justification for recovering the amount. According to applicant, the order of the Supreme Court would only mean that when a punishment of dismissal is substituted by a lesser penalty after confirming the finding of guilt, the employee would not be entitled for back wages for the interim period. Applicant contends that the Supreme Court never passed an order permitting the respondents to recover the amount paid towards back wages for the period he was kept out of service illegally.

2. Respondents submit that R.1-A order sanctioning back wages clearly states that the payment was made on the basis of the directions of the Tribunal and was subject to the outcome of the Special Leave Petition pending before the Supreme Court and that the amount shall be refunded by applicant or can be recovered from his pay and allowances, if the SLP was decided against the applicant. Thereafter, by R.1-B notice, applicant was directed to refund the back wages paid on 30.5.96 failing which action would be taken to recover the amount as per rules. Since the applicant did not respond to the notice, recovery was ordered and even though the amount was recoverable in lumpsum, as an unusual concession on sympathetic grounds, the amount was being recovered

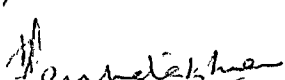
contd.

in instalments spread over 36 months. Respondents submit that the amount recovered is only from the amount which was paid to him in lumpsum and, therefore, no further concession or reduction in monthly instalments is warranted or deserved in this case.

3. It is clear from the Supreme Court's order A.6 that the applicant was not entitled to the back wages directed to be paid to him by the Tribunal in OA 787/94. The respondents are, therefore, at liberty to recover the amount paid to the applicant as back wages. Though the amount paid to him in lumpsum is recoverable in lumpsum, the respondents have shown a concession to the applicant by making recovery in instalments spread over 36 months. The applicant is getting a total amount of Rs.1286.00 per month and the amount of monthly instalment is Rs.748.00. Considering that applicant is still in possession of the lumpsum payment of Rs.27,398.00 paid to him on 30.5.96, we do not consider this recovery is arbitrary or harsh. We see no reason to interfere with the action taken by the respondents to recover back wages paid to the applicant in instalments.

4. The application is without merit and is dismissed. No costs.

Dated the 30th June, 1997.

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
AV HARIDASAN  
VICE CHAIRMAN

LIST OF ANNEXURES

Annexure A6: True copy of the Order in Civil Appeal No.13115-13116 dated 30-9-1996 of the Hon'ble Supreme Court.

Annexure R1(A): True copy of the order dated 27.5.1996 No.B3/OA/787/94 issued by Senior Superintendent of Post Offices, Calicut Division, Calicut-2.

Annexure R1(B): True copy of the Notice No.B3/OA/787/94 dated 14.11.1996 issued by Senior Superintendent of Post Offices, Calicut Division, Calicut-2.

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