

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No.157/2009

This the ¹⁶10 day of September, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)

Hon'ble Dr. A.K. Mishra, Member (A)

Chhitu Ram aged about 64 years son of late Sri Bajrangi resident of Village and Post Office- Ratapur (via Bhadar) District- Sultanpur (presently employed as Gramin Dak Sevak Mail Peon in Sub Post office, Bhadar, District- Sultanpur)

Applicant

By Advocate: Sri R.C.Singh

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, New Delhi.
2. Superintendent of Post Offices, Sultanpur Division, Sultanpur.
3. Inspector of Post Offices, Amethi sub Division, Sultanpur.
4. Sub Post Master, Bhadar, District- Sultanpur.
5. Sri Ram Deo, Inspector of Post Offices, Amethi Sub Division, District- Sultanpur.
6. Sri Vikas Mishra, Sub Post master, Bhadar, District- Sultanpur.

Respondents

By Advocate: Sri S.P. Singh

ORDER

By Hon'ble Ms. Sadhna Srivastava, Member (J)

The applicant initially sought quashing of the order to put him off duty w.e.f. 30.3.2009 but the said order having been revoked on 29.5.2009, the arguments were confined to payment of salary from 30.3.2009 to 29.5.2009.

2. The facts are that the applicant was appointed as Extra Departmental Mail Peon in Branch Post Office Ratapur, District- Sultanpur in 1993. He is due to superannuate on 10.6.2010. Bhadar Sub Post Office is located at a distance of about 6 Kms. from Ratapur. On account of sudden death of

Chowkidar (Kamal Prasad) at Bhadar, some one had to be posted as Chowkidar. Consequently, the applicant was attached to Bhadar Post Office for doing the delivery of mails. Thereafter, the Sub Post Master, Bhadar made a complaint regarding non-delivery of postal articles. The complaint dated 28.3.2009 filed as Annexure No. CA-2 shows the percentage of delivery in respect of various articles. Sub Post Master also mentioned that warning had no effect on the applicant. Taking into account the complaint and after preliminary enquiry, the applicant was put off duty on 30th March, 2009. He has been served with the charge sheet on 29.5.2009. At the same time, put off duty order has been revoked.

3. Respondents in their counter reply have narrated the above facts and contended that in view of relief sought, the application has become infructuous after service of charge sheet on 29.5.2009.

4. Heard the counsel for the parties and perused the records.

5. It is not mandatory to state grounds for passing an order of put off duty/ suspension. However, if grounds are mentioned, the question is how it has to be judged. The constitution bench in **Mahinder Singh Gill Vs. Chief Election Commissioner, 1978 (1) SCC 405** in para 8 has observed "When a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned....." The impugned order to putting the applicant off duty is based on the ground that the enquiry was pending. The Apex Court in the case of **Union of India Vs. K.V. Jankiraman, 1991 (4) SCC 109** has laid down that an enquiry will be deemed to have been pending against an employee only when a charge sheet is issued against him. In the instant case, the charge sheet was admittedly issued on 29.5.2009. Therefore, the order of put off duty dated 30.3.2009 was passed possibly on wrong grounds. It appears that the competent authority revoked the order to put off duty for this reason. We therefore, consider it appropriate that the order to put off duty be deemed to have been revoked from the date it was passed. In the circumstances, the



applicant will become entitled to pay and allowances as usual as if the order to put off duty was never passed. The O.A. is allowed of accordingly without any order as to costs.

A.K. Mishra 10/09/09
(Dr. A.K. Mishra)
Member (A)

Sadhna Srivastava
(Sadhna Srivastava)
Member (J)

HLS/-