

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

Original Application No. 363 of 2010

Order Reserved on 18.5.2015

Order Pronounced On 26-05-2015

HON'BLE MR. NAVNEET KUMAR, MEMBER(J)

HON'BLE MS. JAYATI CHANDRA MEMBER (A)

Uma Ram aged about 50 years, son of late Ram Jiawan, resident of village Mau, Post office and Tahsil Mohanlalganj, District Lucknow presently posted at Sub Post Office Dilkusha, Lucknow.

Applicant

By Advocate Sri S. S. Shukla.

VERSUS

1. Union of India the Ministry of Postal Department through the Secretary New Delhi.
2. Senior Superintendent of Postal Department, Lucknow Division, Lucknow.
3. Director, Postal Department, Lucknow.

Respondents

By Advocate Sri P.D.S. Rana

ORDER

HON'BLE MR. NAVNEET KUMAR, MEMBER(J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

- (i) Order dated 5.1.2010 passed by opposite party No. 2 be quashed.
- (ii) The opposite parties may please be directed to give to the applicant the balance amount of suspension period.
- (iii) The opposite parties may also be directed to give promotion and increment from the year 1998.
- (iv) Any other relief as considered proper by this Hon'ble Tribunal be awarded in favour of the applicant.
- (v) Cost of the application be awarded to the applicant.

2. The brief facts of the case are that the applicant while working with the respondents organisation was proceeded under

Rule-14 of CCS (CCA) Rules-1965 for infringement of certain departmental rules while making delivery of three registered articles. In pursuance of the same, an FIR was lodged under Section 409/420 of IPC against the applicant vide Criminal Case No. 101/1998 and a criminal trial was proceeded vide case No. 1596 of 1998. The learned counsel for the applicant submits that since in the criminal case, the applicant has been acquitted and the person concerned has already been paid the amount. As such non payment of increment and arrears of salary of the suspension period and usual increment from the year 1998 to the applicant is unjustified and the same requires interference by this Tribunal.

3. On behalf of the respondents, the reply is filed and through reply, it is indicated that the applicant was found guilty of the charges levelled against him and he was awarded penalty of reduction of pay by two stages from Rs. 3200 to Rs. 3050 for a period of five years. It is also indicated by the learned counsel for the respondents that as per the departmental inquiry, the applicant was found guilty of the charges levelled against him. As such, punishment was awarded. Not only this, it is also argued and submitted that an FIR was lodged under Section 409/420 of IPC and the trial was also conducted.

4. On behalf of the applicant, rejoinder is filed and through rejoinder mostly the averments made in the O.A. are reiterated and the contents of the counter reply are reiterated. Apart from this, it is also submitted that the appeal against the order dated 5.1.2010 is filed and the same is pending before the authorities and the authorities have not taken any decision on the appeal of the applicant.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant while working in the respondents organisation was proceeded under Rule-14 of CCS (CCA) Rules-1965 for infringement of certain departmental rules while making delivery of three registered articles. In pursuance of the same, an inquiry was conducted and the applicant was found guilty against the charges levelled against him and was awarded the penalty of reduction of pay by two stages from Rs. 3200 to Rs. 3050 in the time scale of Rs. 3050-73-3950-80-1590 for a period of five years w.e.f. 1.1.2002. The respondents have also taken a ground that both the criminal proceedings and the disciplinary proceedings are two different things and the same cannot be clubbed together.

7. In the case of **Indian Overseas Bank , Annasalai and another Vs. P. Ganesan and others reported in (2008) 1 SCC, 650**, the Hon'ble Apex Court has been pleased to observe as under:-

"18. Legal position operating in the field is no longer res-integra. A departmental proceedings pending a criminal proceedings does not warrant an automatic stay. The superior courts before exercising its discretionary jurisdiction in this regard must take into consideration the fact as to whether the charges as also the evidence in both the proceedings are common and as to whether any complicated question of law is involved in the matter.

19. In Delhi cloth and General Mills Ltd.Vs. KushalBhan reported in AI 1960 SC 806, this court while holding that the employer should not wait for the decision of the criminal court before taking any disciplinary action against the employee and such an action on the part of the employer does not violate the principle of natural justice , observed :-

"3....We may, however, add that if the case if a grave nature or involves questions of fact or law, which are not simple, it would be advisable for the employer to await the decision of the trial court, so that the defence of the employee in the criminal case may not be prejudiced."

8. It is also to be indicted that the applicant has taken all these grounds in his appeal dated 11.1.2010/14.1.2010. The bare reading of the pleadings does not indicate that the said appeal of the applicant has already been decided or it is still pending.

9. Considering the submissions made by the learned counsel for the parties and after perusal of the record, we are of the view that since the appeal so preferred by the applicant is still pending for final adjudication, let the authority shall taken a decision on the same in accordance with law within a period of three months from the date, the certified copy of this order is produced.

10. With the above observations, O.A. stands disposed of. No order as to costs.

J.Chandra
(Jayati Chandra)
Member (A)

V.R.Goyal
(Navneet Kumar)
Member (J)

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