

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No.

1987

T.A. No.

22/87

DATE OF DECISION 17.3.1988Shri U.M.Jadhav.PetitionerMr.D.R.Kulkarni,Advocate for the Petitioner(s)

Versus

Union of India & Ors.RespondentMr.R.H.KhirudeAdvocate for the Respondent(s)

CORAM:

Hon'ble Mr. B.C.Gadgil, Vice-Chairman,

The Hon'ble Mr. P.Srinivasan, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? - 43
2. To be referred to the Reporter or not? - 43
3. Whether their Lordships wish to see the fair copy of the Judgement? / NO
4. Whether it needs to be circulated to other Benches of the Tribunal?

4-2000

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(11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No.22/87.

Shri U.M.Jadhav,
C/o. N.R.Shinde,
Sub-Post Master Tilaknagar,
Latur.413 512.

... Applicant

V/s.

1. Superintendent of Post Offices,
Osmanabad Division,
Osmanabad, 413 50P.
2. Director of Postal Services,
Aurangabad Region Osmanapura,
Aurangabad.
3. Union of India.

... Respondents

Coram: Hon'ble Vice-Chairman, Shri B.C.Gadgil,
Hon'ble Member(A), Shri P.Srinivasan.

Oral Judgment:

{Per Shri B.C.Gadgil, Vice-Chairman} Dated: 17.3.1988

Writ Petition No.900/85 of the file of the High Court of Bombay, Aurangabad Bench is transferred to this Tribunal for decision.

2. The applicant who was appointed as a Postal Assistant in the Post and Telegraphs Department in 1981 was removed from service by the Disciplinary Authority (D.A.) viz. Superintendent of Post Offices, Osmanabad by an order dt. 6.8.1982. On an appeal preferred by the applicant the Appellate Authority (A.A.) viz. The Director of Postal Services, Pune set aside the order of the D.A. and directed that the departmental proceedings^{be} conducted denovo from the stage of appointing an Inquiry Officer. An inquiry officer was duly appointed thereafter who, after conducting an inquiry exonerated the applicant^{of} all the charges levelled against him.

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The D.A. disagreed with the report of the Inquiry Officer, held the applicant guilty and dismissed him from service by an order dt. 31.10.1984. It is this order that is challenged by the applicant in the present proceedings.

3. The applicant submitted a petition against the order of dismissal to the Ministry of Communication (Department of Post). The Member Personnel of the Postal service Board considered the petition and on 2nd March, 1988 passed an order. This order was passed after the present application was filed as a Writ Petition before the High Court. A copy of that order is produced before us. The operative part of the order is to the effect that the penalty of dismissal is set aside and ^{that} the applicant is ordered to be re-appointed on the same pay which he was getting before his dismissal.

4. We have heard Mr.Kulkarni, advocate for the applicant and Mr.R.H.Khirude, Assistant Superintendent of Post Offices, PMG's Office, Bombay for the respondents. The grievance of Mr.Kulkarni is that the order dated 2.3.1988 is not in consonance with the findings recorded therein by the Member(Personnel). He further contended that the Member (Personnel) has exonerated the applicant and in that background the applicant should have been reinstated in service instead of being re-appointed. It appears that there is substance in that contention. In paragraph 9 of the order dated 2.3.1988, the Member (Personnel)

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writes:

"...There is no reason to differ with IOs' final conclusion that the charge against Shri Jadhav was not proved beyond doubt. Most probably something went wrong in the Board office for which Sh. Jadhav cannot be blamed. It is also undeniable that the Original Mark-list was all along available in the records of the department. Since Sh. Jadhav made no attempt to destroy or tamper with the original mark-list, it is not clear as to why he can be charged with falsification of records"

This clearly indicates that the Member(Personnel) agreed with IO's finding of not guilty against the applicant in respect of the charge framed against him. With this finding it does not appeal to reason that the applicant should have been re-appointed to the post and not reinstated in it. In fact an appropriate order would have been to rein-state the applicant to the post from which he was dismissed.

5. The question now remains as to what order should be passed about the pay and allowances and other conditions of service for the period between 31.10.1984 till the applicant would be reinstated. Mr. Kulkarni, on instructions from the applicant who is present in the Court frankly stated before us that the applicant is not claiming any salary for this period and that the applicant wants he should be reinstated in service with continuity of service and without any break. In our opinion, the above claim made by the applicant during the hearing and the statement made by Mr. Kulkarni is reasonable. Hence we pass the following order:

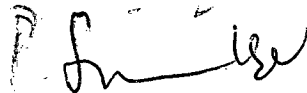
O R D E R

- i) The application succeeds partly.
- ii) Since the order of penalty of dismissal has already been set aside by the Member (Personnel) by his order dt. 2.3.1988, it does not survive for consideration.

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iii) We hereby direct that the applicant should be reinstated in service with immediate effect without any break in service. The period of absence till reinstatement should be treated as extraordinary leave without pay. We make it clear that this period will count for all other purposes as period spent in service.

iv) Parties to bear their own costs.



(P. SRINIVASAN)
MEMBER (A)



(B.C. GADGIL)
VICE -CHAIRMAN.