

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 279/87

199

T.A. NO:

DATE OF DECISION 7.8.1992

VISHNU TUKARAM SARANG

Petitioner

G.D. VALANKAR

Advocate for the Petitioners

Versus

SUPDT. OF Post Offices  
and others

Respondent

SHRI V.M.BENDRE for Mr.P.M.Pradhan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. HON'BLE MR.JUSTICE S.K.DHAON, Vice-Chairman

The Hon'ble Mr. HON'BLE SHRI M.Y.PRIOLKAR, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? yes
2. To be referred to the Reporter or not ? yes
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 ? No

Sd/-  
(S.K.DHAON)  
V/C

mbm\*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.NO.279/87

Shri Vishnu Tukaram Sarang,  
Bombay.

.... Applicant

V/s

1. Supdt. of Post Offices  
Shital Apartments,  
Vile Parle West,  
Bombay - 400056.

2. Smt. Vimla Kumar, Director,  
Postal Services,  
Bombay Region,  
GPO, Bombay - 400001

.... Respondents.

CORAM : HON'BLE MR.JUSTICE S.K.DHAON, Vice-Chairman

HON'BLE SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance :

Shri G.D.Valankar, Adv.  
for the applicant.

Shri V.M.Bendre, Adv.  
for Mr.P.M.Pradhan, Adv.  
for the Respondents.

ORAL JUDGEMENT

7th August 1992

(PER : JUSTICE S.K.DHAON, Vice-Chairman)

The order dated 26th June 1987 passed by the Member (Personnel), Postal Services Board, is being impugned in the present application.

2. On 11 th June 1978, a chargesheet was given to the applicant. On 14th August 1978, he was given a minor punishment. On 6th August 1979, he was given a chargesheet containing allegations <sup>on</sup> the basis of which he could be given a major punishment. This was done by the Appellate Authority. On 8th May 1981 the Appellate Authority passed an order compulsorily retiring the applicant from service with effect from 14th May 1985. A revision application was preferred by the applicant

on 16th September 1981. On 2nd April 1985, the Member, Board, disposed of the revision application. He set aside the order of the Appellate Authority and remanded the matter. On 1st June 1985, the applicant was re-instated in service. On 12th June 1986, the Appellate Authority again passed an order compulsorily retiring the applicant from service with effect from 17th June 1986. Finally, on 3rd September 1987 the order of the Appellate Authority was set aside.

3. The controversy before us is as to whether the applicant is entitled to the past emoluments for the period beginning from 14th May 1981 and ending on 1st June 1985. By the impugned order, the Member (Personnel) has directed that during the period beginning from 14th May 1981 and ending on 1st June 1985 the applicant shall be treated as on duty for all purposes except pay and allowances. He would be paid the subsistence allowance that would have been admissible to him had he been under suspension during the said period.

4. The applicant is really aggrieved by the last part of the order whereby he has been denied the usual emoluments between 14th May 1981 and 1st June 1985. In paragraph 3 of the impugned order, the officer concerned has given the reasons which impelled him to pass an order denying usual emoluments to the applicant. The relevant part of the order may be extracted:

"..... Obviously his conduct was proved to be blame-worthy with such gravity that his retention in service was not considered desirable by the concerned authority".

(9)

5. The order dated 12th June 1986 passed by the Appellate Authority having been set aside on 3rd September 1987, the foundation of the impugned order has become rather shaky. The dominant reason which impelled the Member (Personnel) to withhold usual emoluments of the applicant was the strong feeling of that officer that the applicant had been found unworthy, and he had been again punished by a fresh order of compulsory retirement. It is to be noted that Rule 54(1) of the Fundamental Rules, under which the impugned order was purported to have been passed, empowers the authority concerned to deviate from the normal rule that in the event of the disappearance of the order of dismissal or termination or compulsory retirement the payment of back wages is a matter of course. Therefore, strong reasons should exist for passing an abnormal order. Those reasons, though given in the impugned order, are no longer valid or tenable in view of the subsequent event viz., the order dated 3rd September 1987. The impugned order cannot be sustained.

6. This application succeeds and is allowed. The impugned order, in so far as it directs that the applicant shall not be paid usual emoluments between 14.5.1981 to 1.6.1985 is quashed. The respondents are directed to pay to the applicant all the usual emoluments which would have been payable to him, but for the order of compulsory retirement passed on 8th May 1981, on the footing that the applicant was in continuous and uninterrupted service between 14.5.1981 and 1.6.1985. The payment shall be

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made, as expeditiously as possible, after deducting the entire amount received by the applicant during the relevant period. The payment shall be made within a period of six months from the date of the receipt of a certified copy of this order by the relevant authority.

7. There shall be no orders as to costs.

  
(M.Y. PRIOLKAR)  
M/A

  
(S.K. DHAON)  
V/c

srl