

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

Misc. Application No. of 2000

IN

Original Application No. 252 of 1996

SUKRAM MUKA DESHKAR.

POSTAL ASSISTANT, SHILPHATA P.O.

AT BHAGATSINGH WARD, NEW TAKLI,

BHANDARA - 441 904

...APPLICANT.

Versus

1. THE DIRECTOR POSTAL SERVICES,
MUMBAI REGION,
OFFICE OF THE CHIEF POSTMASTER GENERAL,
MUMBAI 400 001.

2. THE SUPERINTENDENT OF POST OFFICES
NAVI MUMBAI DIVISION,
PANVEL - 410 206

..RESPONDENTS

MISC. APPLICATION OF THE APPLICANT UNDER RULE 24
TRIBUNAL
OF THE CENTRAL ADMINISTRATIVE (PROCEDURE) RULES
1987 FOR MAKING URGENT ORDER TO GIVE EFFECT TO THE
JUDGEMENT AND ORDER DATED 12.06.2000 .

The humble application of the applicant abovenamed most respectfully sheweth :

1. The applicant has filed an Original Application No. 252 of 1996 before this Hon'ble Tribunal under section 19 of the Administrative Tribunal's Act 1985 praying therein interalias that the application be allowed and the appellate order dated 3rd Feb., 1995 passed by the Director Postal Services Bombay Region, Bombay and the

entire disciplinary proceedings including the order of punishment of removal from government service be declared as illegal, unjustified, unconstitutional, baseless, false, malafided, biased, with prejudice, to be bad and invalid and be quashed and set aside the same and exonerated the applicant from charges. And further direct to reinst the applicant on duty and all the period of absence of the applicant including the period of both suspension be treated as on duty and he be paid backwages and all allowances for the period of absence, treating the same as passed on duty.

2. The Hon'ble Tribunal vide order dated 12.06.2000 has allowed the application and has passed following order :

Accordingly we quash the appellate order dated 03.02.1995 with the direction to the Director Postal Services Bombay Region, Bombay, the appellate authority to consider all the grounds taken by the applicant in his appeal and pass a detailed, reasoned and speaking order within a period of two months of the receipt of a copy of this order.

3. In aforesaid order the Hon'ble Tribunal has stated as follows :

IN PARA 5 :

The applicant has referred to Rule 7, abid, (the Rule 7 of the official Languages (use

for official purposes of the Union) Rules, 1976) which states 'where an employee desires any order or notice relating to service matters (including disciplinary proceedings) required to be served on him to be in Hindi, or as the case may be, in English, it shall be given to him in that Language without undue delay (amphasis supplied). He further pointed out that the appellate authority did not give him an opportunity of hearing and passed an arbitrary and non-speaking order.

IN PARA 6 :

We find that the applicant's objection regarding the Hindi Language was raised by him in the previous O.A. which was decided on 09.03.1992, and the punishment order dated 19.08.1988 and the appellate order dated 30.09.1989 were quashed and set aside.

A copy of this order dated 12.06.2000 is enclosed to this application as Annexure M.A.1 .

4. A copy of the said order received by the respondents on dated 13.06.2000 .

5. The applicant submits that as per this order the respondents were duty bound to hear the applicant in person and to decide the appeal of the same within a period of two months, which the respondents authoritis have failed to do.

6. In this connection, the applicant is refer

to provision of Rule 129 of Postal Manual Volume - III, which states " An appellate order replaces the punishment order, Accordingly if an appellate order is set aside for procedural defects, the punishment order will also simultaneously stand quashed. In such a case, it should therefore, be necessary to initiate de-novo proceedings against the concerned officer. " An amphasis is enclosed to this application as Annexure M.A.5.

7. A de-novo proceedings are not initiated against the applicant upto date by the respondents.

8. Hence, with effect of the aforesaid provision and order passed by the Hon'ble Tribunal dated 12.06.2000, the punishment order dated 26.06.1992 of applicant's removal from government service including all the disciplinary proceedings against the applicant with applicant's appeal has stand quashed and the applicant have exonerated from the charges.

9. And therefore, to give effect to the order passed by the Hon'ble Tribunal dated 12.06.2000, it was the duty of the respondents be reinstated the applicant in government service and be paid full backwages and allowances for the whole period of absence (including the period of both suspension) treating the period spent on duty for all purposes.

10. But inspite of doing this, the Regional

Director Postal Services Mumbai, Region Mumbai is rejected the applicant's appeal dated 19.08.1992 illegally and arbitrarily vide his order No. STA/44-7/42(1)/23/00, dated 05.09.2000 without giving an opportunity of personal hearing to the applicant and without initiating a de-novo proceedings, which has already stand quashed or lapsed with the punishment order and all other disciplinary proceedings before passing the said order. A copy of this appellate order is enclosed to this application, as Annexure M.A.3 .

11. This appellate order received by the applicant on dated 28.09.2000 .

12. This appellate order passed by the Director, Postal Services is totally meaningless and void and it can not became in force. The said order of rejection of appeal is illegal, unjust, unconstitutional and is against the law and is a gainst the principles of natural justice.

13. Before passing the said appeallate order a de-novo disciplinary proceedings has not initiated by the respondents.

14. The legal requirements of Law and the procedure laid down in rule 27 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 are not followed by the Director of Postal Services while deciding the appeal.

15. No opportunity of personal hearing given by the Director, Postal Services to the applicant against he made specific request for the same before deciding the appeal.

16. Inspite of considering the grounds taken by the applicant in his appeal and passing a detailed, reasoned and speaking order, the Director Postal Services has deliberately stated only false, irrelevant, illegal and meaningless comments on the same. In his appellate order he has made states against the facts and the record of the case, in favour of the punishing and enquiry officer and has acted biased against the applicant. The applicant's appeal has succeeded before the Director of Postal Services. But inspite of allowing the apeal and quashing the punishment order and other discipoinary proceedings, he has rejected the same illegally and arbitrarily. The appellate authority has deliberately decided the appeal wrongfully and has gross unjustified, with the applicant. A copy of the applicant's appeal is enclosed to this applicant as Annexure M.A.4 .

17. As stated by the Hon'ble Tribunal in Para 5 and Para 6 of the order passed on dated 12.06.2000, which is reproduced, it find out that an information of charges, Notice of enquiry and an opportunity of hearing was denied to the applicant contravening the provision of Rule 7 of the Official Languages (Use for official purposes of the Union) Rules 1976, in this disciplinary proceedings.

Such ground was also raised by the applicant in his appeal. Hence it was the duty of the Director Postal Services be quashed and set aside the punishment order and all other disciplinary proceedings against the applicant and be exonerated the same from the charges on such ground, which has not done by the same.

18. In his appellate order, the Director Postal Services has failed to confirm the punishment of removal imposed against the applicant by the Superintendent of Post Offices vide his order dated 26.06.1992. He has confirmed an non-imposed punishment of dismissal against the applicant. Hence, the both orders are already stand illegal, invalid, void and null and is not in force.

19. The order of rejection of appeal dated 05.09.2000 and the removal of the applicant from government service is against the provision of Article 311 (1) and 311(2) and is against the principles of natural justice. The procedure laid down in various rules of the Central Civil Services (C.C.A.) Rules 1965, is not followed for the same. it is gross unjustified with the applicant. The same is illegal, unjust, unconstitutional, baseless, malafide, with prejudice and is to be bad of the applicant and is invalid on the facts and grounds stated in above in this application and the non-decided grounds taken by the applicant in his Original Application No.252 of 1996. Hence the appellate order dated

05.09.1992 and the punishment order dated 26.06.1992 and the entire disciplinary proceedings followed against the applicant is deserves to be quashed and set aside.

20. As stated in above, it is cleared that the appellate authority have failed to implement the order passed by the Hon'ble Tribunal dated 12.06.2000 and to justified with applicant. The appellate order dated 05.09.2000 passed by the Director Postal Services is totally meaningless, void and is cannot became in force. The Punishment Order has also stand quashed before passing the same. Hence, for preventing gross loss caused to the applicant, which cannot be adequately compensated in money, the reinstment of the applicant in government service is necessary as urgent basis.

21. The copies of this Misc. Application is sent to the Respondents by the Registered Post and delivered by hand on dated 6-10-2000, which receipt posted herewith.

P R A Y E R

In view of the facts mentioned in above the applicant prays for following urgent relief :


It is prayed that to give effect to its order dated 12.06.2000 and to secure the ends of justice the Hon'ble Tribunal be allowed this misc. application and be declared the appellade order dated 05.09.2000 and the punsihement order dated

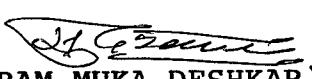
26.06.1992 and the entire disciplinary proceedings as illegal, unjustified, unconstitutional, baseless, false, malafide, biased, with prejudice, to be bad and invalid and is not in force and be quashed and set aside the same and exonerated the applicant from charges and be further direct to reinst the applicant on duty and all the period absence of the applicant including the period of both suspension, be treated as on duty and he be paid fully backwages and allowances for the period of absence treating the same as passed on duty for all purposes as upto date pay and allowances.

VERIFICATION

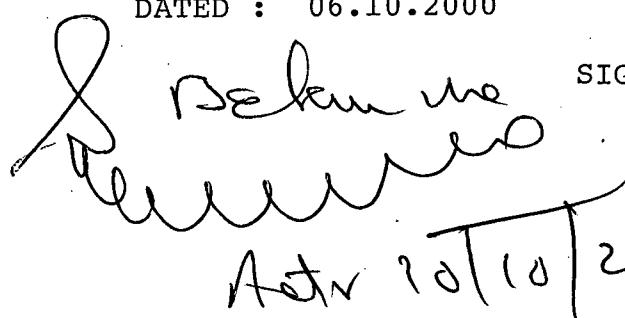
I, Sukram S/o. Muka Deshkar, age 42 years, lat working in Shilphata (Khopoli) Post Office, resident of Bhandara do hereby verify that the comments of Para⁰¹ to²¹ are true on legal advice and that I have not suppressed any material fact.

PLACE : MUMBAI

DATED : 06.10.2000


(SUKRAM MUKA DESHKAR).

SIGNATURE OF THE APPLICANT.


Below me
Believe me
Astr 10/10/2000

