

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED THIS THE 19TH DAY OF JANUARY, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

Vice-Chairman.

And

Hon'ble Mr. P. Srinivasan,

Member(A).

APPLICATION NUMBER 812 OF 1986.

D.G. Panchamukhi,
Retired A.P.M., Bangalore GPO
now residing at No. 31, Panchamukhi Sadan,
Brindavan Nagar, Chikkadugodi,
Bangalore-560 081.

Applicant.

v.

1. The Union of India,
by its Secretary,
Department of Personnel and Training,
New Delhi-110 001.
2. Government of India,
Ministry of Communications,
P. & T. Board, New Delhi-110 001.
3. The Post Master General,
Karnataka Circle,
Palace Road,
Bangalore-560 001.

Respondents.

(By Sri M.S. Padmarajaiah, Standing Counsel)

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This application coming on for hearing this day, Member Sri P. Srinivasan, made the following:

ORDER

The applicant who argued his case personally was working as Assistant

P. Srinivasan

Post Master, Bangalore General Post Offices, till he retired from service in 1982. In 1980 he was placed under suspension for 42 days from 28-4-1980 to 9-6-1980 as disciplinary proceedings were to be initiated against him. Subsequently the disciplinary proceedings were initiated and the disciplinary authority awarded a punishment which in appeal was reduced to censure. His contention in the application is that since the disciplinary proceedings ended in a minor penalty, the period of suspension should have been treated as period on duty and he should have been allowed pay and allowances as if he were on commuted leave, he had sufficient half pay leave for the purpose. In this application he relies on Official Memorandum of Government of India, Department of Personnel and Training in No. 11012/15/85-Estt(A) dated 3-12-1985 (Annexure-A). In this OM it was clarified that after discussion with the staff side of the Committee of the National Council it had been decided that 'where departmental proceedings against a suspended employee for the imposition of a major penalty finally end with the imposition of a minor penalty, the suspension can be said to be wholly unjustified in terms of FR 54-B and the employee concerned should, therefore, be paid full pay and allowances for the period of suspension by passing a suitable order under FR 54-B'.

2. Sri Padmarajaiah appearing on behalf of the respondents contends that the OM relied on by the applicant was intended to have prospective operation from the date of its issue, that is, from 3-12-1985 and that, therefore, it would not apply to the period with which we are here concerned which falls in 1980.

3. We have considered the matter carefully. What Government in the OM dated 3-12-1985 intended to do was to clarify the position which is not peculiar to events that happened after it was issued. It was noticed in that OM that Government had issued instructions

P. A. [Signature]

on 22-10-1965 entitled "guidelines for placing Government Servants under suspension" according to which a Government servant could be placed under suspension if a prima facie case had been made out justifying his prosecution or disciplinary proceedings which are likely to end in his dismissal, removal or compulsory retirement. After referring to these instructions, the OM goes on to say that Government had accepted the plea of the staff side even where initially a Government servant was suspended accepting the disciplinary proceedings to end in a major penalty, if as a matter of fact, the disciplinary proceedings ended in the imposition of minor penalty, the suspension should be treated as wholly unjustified in terms of FR 54B and that the employee should be paid full pay and allowance for the period of suspension by passing suitable order under FR 54B. As we have stated earlier, even before the OM under reference was issued the position was that under the earlier OM dated 22-10-1964 a Government servant could be placed under suspension if disciplinary proceedings initiated were likely to end in a major penalty and not if they were likely to end in a minor penalty. If eventually the proceedings ended in the imposition of minor penalty, the OM dated 3-12-1985 took a liberal view and treated the case as if even initially only a minor penalty could be accepted to have been imposed. In fact the applicant clarifies that even when the proceedings were initiated they were only intended to levy a minor penalty. In these circumstances, we think the same treatment should be accorded to the applicant as was contemplated in O.N. dated 3-12-1985 for some other cases. This being so, the claim that the period of suspension should be treated as commuted leave is very reasonable. We, therefore, allow the application and direct the respondents to treat the period from 28-4-1980 to 9-6-1980 during which the applicant was placed under suspension as commuted leave and accordingly give

P. L. V.

Day no 77/38 89
13-3-89

(SI)

D.No. 2013/87 /Sec.IVA

SUPREME COURT OF INDIA
NEW DELHI

Dated 23.2.1989 8-3-89

From:

The Additional Registrar,
Supreme Court of India.

To,

The Registrar,
Central Administrative Tribunal
Bangalore Bench
Commercial Complex(BDA)
Bangalore-560038

13/3/89
Sd/-
13/3
Sd/-

PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 4916 of 1987
(Petitions under Article 136 of the Constitution of India for
Special Leave to Appeal to the Supreme Court from the
Judgment and Order dated the 19.1.87 of the
High Court of
Karnataka/Central Administrative Tribunal, Bangalore Bench in Application
in Appln. No.812 of 1986)

The Union of India & Ors
-Vs-
D.G.Panchamukhi

xxxxxx.

.. Petitioner (S)

... Respondents

.. Respondent(s)

Sir,

I am to inform you that the Petitions above-mentioned for
Special Leave to Appeal to this Court was/were filed on behalf
of the Petitioner above-named from the Judgment and Order of the
High Court

Karnataka/Central Administrative Tribunal Bangalore Bench

noted above and that the same was/were dismissed/exposed of

by this Court on the 16th day of February, 1989 1989.

Yours faithfully,

for Addl.Registrar.