

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

CORAM

Hon'ble Shri Ch. Ramakrishna Rao, Member (Judicial)
Hon'ble Shri L.H.A. Rego, Member (Administrative)

Application No. 1 of 1986(F)

Date of Decision : 25.8.'86.

M. Huchaiah : Applicant.

Versus

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|--|---|--------------|
| 1. The Director of Postal Services,
Karnataka Circle,
Bangalore-560 001. | } | Respondents. |
| 2. Senior Superintendent of
Post Offices,
Bangalore West Division,
Bangalore. | } | |

Shri M. Raghavendra Achar : Advocate for the Applicant.

Shri M. Vasudeva Rao : Advocate for the Respondents.

JUDGEMENT DELIVERED BY SHRI L.H.A. REGO, MEMBER (AM)

The applicant has prayed for setting aside the impugned orders dated 26.4.1985 and 19.7.1985 issued by the second and the first respondents respectively and for directing them to enhance the Subsistence Allowance (SA for short).

2. The facts of the case are briefly as under:
During his term as Post Master, Peenya Small Industries Post Office, the applicant was involved in a case of non-accounting of customs duty amounting to Rs. 1,08,057.06 in respect of inward foreign parcels and delaying credit of an amount of Rs. 7732.45. He was therefore placed under suspension with effect from 1.2.1984, pending institution of disciplinary proceedings in accordance with the provisions of CCS (CCA) Rules, 1965 and paid SA equal to the

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GRJ

Appln: No. 1/1986 (F)

New application


M. Hutchaiiah ... Applicant

Vs

Director of Postal
Services and another... Respondents

The applicant's entitlement for a higher
subsistence allowance is raised in this application.
The application is admitted. Issue notices to the
respondents returnable by 17th February, 1986.
Call on 17th February, 1986.

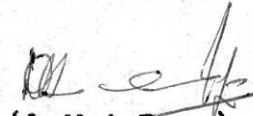
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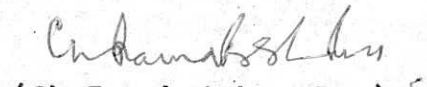

17.1.1986

period of three months of his suspension.

6. In view of the above facts and circumstances, we are inclined to strike a golden mean and direct the respondents to grant the applicant SA (on expiry of the period of the first three months of his suspension) at 40% instead of 50%, as stipulated in FR 53(1)(ii)(a)(i).

7. In the result, the application is partly allowed.


(L.H.A. Rego)
Member (AM)
25.8.'86


(Ch. Ramakrishna Rao)
Member (JM)
25.8.'86

leave salary which he would have drawn had he been on leave on half average pay or on half pay and in addition, dearness allowance, as was admissible on the basis of such leave salary, in accordance with Rule 53(1)(a) of the Fundamental Rules (FR for short). The quantum of SA admissible on review, after expiry of the period of three months of suspension, in accordance with the FR was actually reviewed in April, 1984 by the second respondent, who in his Memo dated 26.4.1985 ordered, that SA already sanctioned shall continue without change. The applicant appealed to the first respondent, who in his Memo dated 19.7.1985 rejected the same. The applicant thereon submitted a representation to the next higher authority namely, the Post Master General, Karnataka Circle, Bangalore (PMG for short), which met with the same fate. The decision of the PMG was communicated by the second respondent to the applicant through his Memo dated 25.11.1985. Aggrieved, the applicant has approached the Tribunal for redress.

3. In our opinion the period of 10 days initially granted to the applicant to submit his written statement of defence was unreasonably short, considering the gravity of the charge framed against the applicant. The applicant had therefore, on 22.12.1984, sought extension of time by a month, but he was allowed time upto 15.1.1986. The applicant sought further extension of time by a fortnight. In all, he applied for a period of 54 days, to submit his defence statement, which period in our view, cannot be termed as unreasonably long, so as to hold the applicant blameworthy for unduly prolonging the disciplinary proceedings.

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4. This takes us to Rule 53 of the FR, which, in so far as it is relevant, reads as follows:

"A Government servant under suspension shall be entitled to the following payments, namely:-

i)

ii)(a) a subsistence allowance at an amount equal to the leave salary which the Government servant would have drawn, if he had been on leave on half average pay or on half pay and in addition, dearness allowance, if admissible on the basis of such leave & salary:

Provided, that where the period of suspension exceeds three months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows:

(i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of the first three months, if, in the opinion of the said authority, the period of suspension has been prolonged due to reasons, to be recorded in writing, not directly attributable to the Government servant."

5. The first respondent has clearly stated in his order dated 19.7.1985:

"It is not only due to administrative lapses, that the inquiry has been extended but the official has also an equal role in delaying the cases".

That the applicant was only partly responsible for the delay, as remarked by the first respondent has also been iterated in the statement of objection, filed by the respondents. It is, therefore evident, that the reasons for the period of suspension having been unduly prolonged, are not directly attributable to the applicant and therefore, in the context of FR 53(1), it would be unfair to deny altogether, enhancement of SA to the applicant beyond the

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