

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

DATED THIS THE FIFTEENTH DAY OF OCTOBER, 1986.

Present: Hon'ble Shri Ch. Ramakrishna Rao, Member (JM)
and

Hon'ble Shri P. Srinivasan, Member (AM).

Application No. 781 of 1986
(W.P. No. 12728/81)

Between:-

Smt. Chengalu,
70/3, 1st Cross,
Raghavendra Colony,
Chamarajapet,
Bangalore.

...Applicant.

and

1. Union of India, rep. by its Secretary,
Ministry of Communications,
New Delhi.
2. Director General of Posts & Telegraphs,
New Delhi.
3. Post Master General,
Andhra Pradesh,
Hyderabad.
4. Superintendent of Post Offices,
Cuddapah Division,
Cuddapah, Andhra Pradesh.
5. Senior Supdt. of Post Offices,
South Division,
Bangalore.
6. Post Master General,
Karnataka State,
Bangalore.

...Respondents.

The application has come up for hearing today before this
Court and after hearing the arguments of both sides, the



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Member (JM) made the following:-

O R D E R

In this application, which was initially filed as a writ petition in the High Court of Karnataka, the applicant challenges the validity of the order dated 15.10.1980 passed by the Senior Superintendent of Post Offices, Bangalore South Division (the 5th respondent herein) conveying the decision of the P & T Board, New Delhi rejecting the representation of the applicant for regularisation of the period of suspension as time-barred under rule 118-B of the P & T Vol.II. She has also sought a writ of mandamus directing that the applicant is entitled to continuous service from 16.8.1963 upto 15.10.1969 and all consequential benefits flowing therefrom.

2. The facts leading to this application are ~~xxx~~ briefly stated as under:

The applicant is a postal clerk in the P & T Department. She applied for leave from 13.5.1967 to 5.7.1967, and again from 6.7.1967 to 27.7.1967 on half-pay leave, and again from 28.7.1967 to 12.2.1968. The leave applied for by the applicant on the first two ^{occasions} ~~spekks~~ was

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sanctioned, but not in regard to the third. The officer concerned refused to take her back to duty on the expiry of the leave for the third spell on the ground that the applicant was entitled only to 90 days leave on loss of pay, being a temporary employee. The request of the applicant to be taken back to duty was rejected by the higher authorities upto the level of Post Master General. At last, the Director General of P & T in his letter dated 24.7.1969 ordered the applicant's re-employment without prejudice to any action that may be taken against her for her lapses during the period of previous employment. She accordingly joined duty on 15.10.1969. Earlier to her re-employment, a memo was issued by the Superintendent of Post Offices, Cuddapah Division, on 5.4.1969 to the effect that the applicant who was on earned leave on a medical certificate since 28.7.1967 having exceeded the permissible six months of extraordinary leave (EOL) on 24.1.1968 was deemed to have resigned from service w.e.f. 24.1.1968, vide rule 14(b) of the Revised Leave Rules, 1933 (the Rules). Thereafter, she represented before the authorities that the



period from the date of her deemed resignation, i.e., 24.1.1968, till 15.10.1969, be treated as continuous service. This was rejected at all levels, upto the level of D.G. P & T. ~~The grievance of the applicant, really, is against the action of the authorities in not acceding to her above request.~~ Hence this application.

3. The short point for determination in this case is whether the applicant had exhausted six months EOL for which she was entitled to under rule 14(b) of the Rules as on 24.1.1968 when she was deemed to have resigned. She would not have exhausted her leave if credit had been given to the period during which she was kept under suspension, i.e., from 7.12.1965 to 13.2.1967. She was kept under suspension because of a criminal case which was pending at that time and which later terminated in her favour, and she was fully acquitted of the charge levelled against her in those proceedings. In the letter dated 12.6.1974 passed by the P & T Board, it is stated:


" The P&T Board, in exercise of the powers conferred under rule 29(10)(iii) of the CCS (CCA) Rules, 1965, hereby order that the period of suspension of Smt. K. Chengalu from 7.12.65 to 13.2.67 should be treated as duty for all purposes including pay and allowances."


C. S. S.

4. Shri M.S. Padmarajai ah, learned counsel for the respondents, fairly conceded before us that in reckoning the leave to which the applicant was entitled, credit was not given to the period during which she was kept under suspension, i.e., from 7.12.1965 to 13.2.1967. In view of this, we direct the respondents to recalculate the leave admissible to the applicant, including the EOL under rule 14(b) of the Rules and review their decision declining to treat the period from 24.1.1968 to 15.10.1969 as continuous service.

5. If the applicant is in any way aggrieved by the order which may be passed by the authorities pursuant to the direction given above, she is at liberty to approach this Tribunal for appropriate relief.

6. In the result, the application is disposed of, but with no order as to costs.


(CH. RAMAKRISHNA RAO)
MEMBER (JM)
15.10.1986.


(K. P. SRINIVASAN)
MEMBER (AM)
15.10.1986.

dms.