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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 749/97

DATE OF DECISION: 31st August 2001

Shri Pradeep Malhari Lakade Applicant.

Shri S.P.Kulkarni Advocate for
Applicant.

Verses

Union of India and others Respondents.

Shri S.S. Karkear for Shri P.M.Pradhan Advocate for
Respondents

CORAM

Hon'ble Shri S.L.Jain Member(J)

Hon'ble Shri G.C. Srivastava, Member(A)

(1) To be referred to the Reporter or not? yes

(2) Whether it needs to be circulated to
other Benches of the Tribunal? No

(3) Library. yes

S.L.Jain
(S.L.Jain)
Member(J)

CNS

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 749/97

the 31st day of AUGUST 2001

CORAM: Hon'ble Shri S.L. Jain, Member (J)

Hon'ble Shri G.C. Srivastava, Member(A)

Pradeep Malhari Lakade
Postal Assistant
Kedgaon Sub- Post Office,
Pune, Mofussil (Postal) Division
Kedgaon, Daund, Pune.
Residing at Near Panchasheel Cinema
P.O. Daund, Pune.

...Applicant

By Advocate Shri S.P.Kulkarni

V/s

1. Union of India through
Superintendent of Post Offices,
Pune Mofussil (Postal) Division
Swargate, AT P.O. Pune.
2. Director of Postal Services
Pune Region Office of Postmaster
General, Pune Region, Near CTO
Pune.
3. Postmaster General
Maharashtra Circle,
Pune Region,
At. P.O. Pune.

...Respondents

By Advocate Shri S.S.Karkera for Shri P.M.Pradhan

O R D E R

{Per S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985 for a declaration that the Act of withholding of E.B. raising Pay from Rs. 1150 - 1180 from 1.3.1994 till todate is arbitrary, violative of set procedure and Principles of law with a direction to the respondents to hold Review D.P.C. for crossing E.B. with effect from 1.1.1994 and if

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result kept in sealed cover - open the same[✓] and act on it and also to quash and set aside Memo dated 25.3.1994, 22.8.1995, 6.5.1996 and 1.8.1996 {Exhibit A-1 (a) to A-1(d)} with consequential reliefs.

2. The applicant is drawing Rs. 1150/- in the scale of Rs. 975 - 1660 as Postal Assistant since 1.3.1993 till todate as he was not allowed to cross EB since 1.3.1993 as per orders issued on 25.3.1994 {Exhibit A - 1(d)}, 22.8.1995 {Exhibit A-1 (c)}, 6.5.1996 {Exhibit A-1 (b)}.

3. Vide order dated 1.8.1996 {Exhibit A-1(a)} the representation of the the applicant dated 30.5.1996 has been rejected with an observation that the EB will be considered on finalisation of the disciplinary proceedings. Perusal of order dated 6.5.1996 {Exhibit A-1(b)} makes it clear that the applicant [✓]was not allowed to cross EB due at the stage of Rs. 1150/- as disciplinary action is contemplated against the applicant in Bhandgaon Fraud case. Vide order dated 22.8.1995 {Exhibit A-1(c)} the applicant is not allowed to cross EB due at the stage of pay of Rs. 1150/- with effect from 1.3.1994 as disciplinary proceedings contemplated against the applicant in Bhandgaon Fraud case. Vide order dated 25.3.1994 {Exhibit A-1 (d)} the applicant is not allowed to corss EB with effect from due date i.e. 1.3.1994 at the stage of Rs. 1150/- in the scale of Rs. 975 - 1660 as disciplinary action initiated against the applicant is in progress and as he is identified as subsidiary offender in Bhandgaon fraud case.

Am'

4. The learned counsel for the applicant relying on Annexure A- 5 (Page 22 to 24) argued that vide order dated 31.12.1993 punishment awarded by the Superintendent of Post office Pune vide order dated 23.6.1993 has been set aside and case is remitted back to the Disciplinary Authority i.e. Superintendent of Post Offices Pune with a direction that he should be shown the concerned record and record his say, conduct preliminary enquiry and then arrive at a clear conclusion about the violation of rules, if any committed by the applicant and then initiate disciplinary proceedings afresh. The learned counsel for the applicant contended that after setting aside the penalty order the Appellate Authority has ordered a fact finding enquiry and consider to initiate the disciplinary proceedings afresh. According to him after the said order no action has been taken by the respondents to initiate disciplinary proceedings afresh. It is contended by the learned counsel for the respondents that the documents are not traceable and correspondence is going on. But it is a fact that still fact finding enquiry is yet to be held and concluded. Thus there cannot be a case at this stage that some disciplinary proceeding is contemplated for the reason that after conclusion of the fact finding enquiry the respondents have to arrive to a conclusion whether to initiate the disciplinary enquiry proceedings afresh or not.

5. The learned counsel for the respondents submitted the record regarding crossing of EB in respect of officials including the applicant. On perusal of the said file we find that on 3.7.1995 the applicant's case for crossing of EB was considered

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and he was not allowed to cross EB as disciplinary action is contemplated against the applicant in Bhandgaon fraud case. As stated above the observation of the committee regarding with holding of crossing of EB by the applicant is based on Bhandgaon fraud case which as stated above is yet at the stage of fact finding enquiry. There after the applicant represented to the respondents vide his representation dated 16.2.1996 and 26.4.1996 and the respondents informed the applicant accordingly.

6. We have carefully perused the file regarding crossing of EB submitted by the respondents. After 3.7.1995 applicant's case was never considered for crossing of EB. Only the applicant was replied in respect of his representation dated 16.2.1996 and 26.4.1996.


7. The applicant has filed this OA on 27.8.1997 challenging the order dated 1.8.1996 and earlier orders dated 25.3.1994, 22.8.1995 and 6.5.1996 keeping in view the period prescribed for filing of OA by agrieved party is one year. The order dated 1.8.1996 challenged by the applicant is within the period of limitation as a reasonable time for communicating the same to the applicant is expected to be three weeks or so. Earlier order dated 6.5.1994, 22.8.1994 and 25.3.1994 cannot be said to be within the period of limitation.

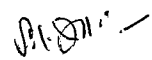
8. As stated above vide order dated 1.8.1996 the applicant's representation was replied in respect of with holding of crossing of EB by the DPC meeting dated 3.7.1995. The respondents are expected to consider the case of the applicant afresh ignoring contemplation of disciplinary case in Bhandgaon fraud case. It appears that meeting was held in May 1995 was in respect of

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period from April to July 1995 though no specific mention. Hence it is ordered that the respondents to convene Review DPC meeting for consideration of the applicant's case as on 1.4.1995 ignoring the contemplation of disciplinary proceedings in Bhandgaon fraud case for crossing of EB within a period of three months. As the DPC for crossing of EB ought to be convened after every quarter First quarter DPC must be held in January, Second quarter in April, Third quarter in July and Forth quarter in October.

9. In the result the OA is allowed. The respondents are directed to convene Review DPC in respect of the applicant for crossing EB as on 1.4.1995 ignoring the contemplation of disciplinary proceedings in Bhandgaon fraud case and further DPCs if necessitated by the circumstances of the case within a period of three months from the date of receipt of copy of the order. No order as to costs.


(G.C. Srivastava)
Member(A)


(S.L. Jain)
Member(J)

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