

ANNEXURE - I

List of Papers in Original Application No.

982/93

Sl.No.Of
Papers.

Date of Papers
or
Date of Filing.

Description
Of Papers.

Part - I

20-1-94

Original Judgement

O.A. & Meterial Papers.

Counter

Reply Counter.

PART - I, PART - II, PART - III
Destroyed.

2/8/99

②

HNRT
VC

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

O.A. NO./T.A. NO. 982 1993.

R Appiah Applicant (S)

Versus

The S.D. Inspector, Postal Respondent (S)
Srikakulam & 2 others.
Orders

Date	Office Note	Orders
20.8.93	<p>Notice before admis- sion.</p> <p>Post on 1-10-93, for counter in the meanwhile.</p> <p>Print the name of Mr. N.V. Raghava Reddy.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>✓</p> <p>HPTT M(A)</p> </div> <div style="text-align: center;"> <p>✓</p> <p>HVNRT VC</p> </div> </div>	
1-10-93	<p>Admit. Post on 12-11-93 below admissions. For counter in the meanwhile</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>✓</p> <p>HPTT M(A)</p> </div> <div style="text-align: center;"> <p>✓</p> <p>HVNRT VC</p> </div> </div>	
<u>31.10.93</u>	<p>Post on 31.10.93 below admissions for counter in the meanwhile.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>✓</p> <p>HPTT M(A)</p> </div> <div style="text-align: center;"> <p>✓</p> <p>HVNRT VC</p> </div> </div> <p style="text-align: center;">as order.</p>	

NEA
20/8
PT
9/11/93

22/11/93

THE UNITED STATES OF AMERICA

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D.C.

RECEIVED

.....

..

1. The undersigned, being a duly qualified and licensed attorney at law, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the files and records of the Department of Justice.

2. The undersigned, being a duly qualified and licensed attorney at law, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the files and records of the Department of Justice.

3. The undersigned, being a duly qualified and licensed attorney at law, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the files and records of the Department of Justice.

.....

Witness my hand and the seal of the Department of Justice at Washington, D.C., this 1st day of January, 1901.

JOHN D. BROWN, Attorney General

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Department of Justice at Washington, D.C., this 1st day of January, 1901.

JOHN D. BROWN, Attorney General

.....

22

DA.982/93

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri S. Rama Krishna Rao, learned Counsel for the applicant and Sri N.V. Raghava Reddy, learned counsel for the respondents.

This case was filed for an order to treat the applicant as on duty from 5-10-1991 and for consequential benefits like salary etc.

3. The applicant was appointed as EDBPM, Khajuru, a/w Kanchili in Srikakulam Division. It is stated for the respondents that on receipt of a report on 18-9-¹⁹⁹¹~~1990~~ from Sub-Post Master Kanchili about the unsatisfactory work of the applicant, the Sub-Divisional Inspector (Postal), Sompeta Sub Division, ^(R-1) inspected this Branch Office on the same day and he submitted a report about the work of the applicant on 20-9-¹⁹⁹¹~~1990~~ before the Senior Superintendent of Post Offices (R-2). Thereupon according to the respondents, R-2 placed the applicant on put-off duty at once and directed ¹⁹⁹¹issuance of the said order by telegram to R-1 on 23-9-¹⁹⁹¹~~1990~~. The relevant portion of the order dated 23-9-¹⁹⁹¹~~1990~~ of R-2 reads as under :

"The BPM should be put off duty at once. Please issue telegram to SDI(P)".

4. R-1 issued memo No.PF/EDBPM/(NJR)-91 dated 28-9-1991 and the body of the memo is as follows :

"Under the provisions of Rule 9(2) of the P&T ED Agents (Conduct and Service) rules, 1964, Sri Ravada Appaiah, Branch Post Master, Khajuru BO in a/w Kanchili is placed under put-off duty with effect from the afternoon of 28-9-91, pending an enquiry in his work.

2. Sri Ravada Appayya is not entitled for any allowances during the put-off period.

3. His headquarters are fixed as Khajuru during the period of put off duty."

22

^{Various Officers}
~~And informing the same to the persons~~ to whom copies
were marked, were referred to ^{therein} Serial No.3 therein is
Senior Superintendent of Post Office ^(R-2) (U.R.T F 4.2/91-92 dt.
23-9-91 : he is requested to satisfy the orders.)

5. It is contended for the applicant that it is evident from memo dated 28-9-91 issued by R-1. ~~It is~~ R-1 who had placed the applicant on put off duty in exercise of powers under Rule 9(2) of EDA (C&S) Rules (for short rules) and the same was not ~~ratified~~ ^{as} by R(2) i.e. the Appointing authority or any authority above him. ~~It~~ ^{and it} stood lapsed as on 14-10-91 and hence the applicant should be treated as on duty and he is entitled to the salary from that date.

6. It is next urged for the applicant that the note dated 23-9-93 which is now produced for the respondents is ~~now~~ ~~ever~~ brought into the existence later and if the said note was there, R-1 would not have stated in memo dated 28-9-91 that he himself was placing the applicant on put off duty. Annexure-3, order dated 19-3-93 of Director of Postal Services, Visakhapatnam, would also support the contention for the applicant ~~by way of~~ ^{it is} note dated 23-9-93 was a subsequent manipulation, ^{contended learned counsel for applicant}

7. The allegation in regard to manipulation was denied in the reply filed by the Assistant Post Master General in the office of Chief Post Master General, Hyderabad. It is contended by Sri N.V. Raghava Reddy, learned counsel for the respondents that note dated 23-9-91 of R-2 clearly establishes that it is R-2 i.e. the Senior Superintendent of Post Offices, Srikakulam, who had placed the applicant on put off duty ~~under~~ ⁱⁿ exercise of powers under Rule ~~9(2)~~ ⁹⁽¹⁾ of EDA (C&S) Rules (for short rules) ~~for~~ ^{and} the said order does not require ratification.

✓

(24)

8. It is also stated for the respondents that the very memo dated 28-9-91 issued by R-1 indicates that it was issued in pursuance of the order dated 23-9-91 of R-2 and ~~thus~~ it cannot be stated that the order dated 23-9-91 of R-1 was brought into existence later. Even the order dated 19-3-1993 of the Director of Postal Services is to the effect that the order of put off duty was issued by R-2 vide his service message No.P/1145/23-9-91 and it is not to the effect that R-2 had not issued such order on 23-9-91.

9. It is true that if the body of the memo dated 28-9-91 issued by R-1 alone is looked into, it is indicated that it is the R-1 who had placed the applicant on put off duty in exercise of the power under Rule 9(2) and requested R-2 to rectify the same as per the endorsement at Sl.No.3 of copy of the memo. But as ~~evidently~~, the message dated 23-9-91 of R-2 was referred to in the memo dated 28-9-91 issued by R-1, ~~It~~ ^{It} has to be stated that he issued the said memo in pursuance of the message dated 23-9-91 of R-2. It may be noted ^{it} even on 20-9-91, R-1 submitted report alleging ~~some~~ irregularities committed by the applicant, to R-2. If it is a case where R-1 on his own in exercise of power under Rule 9(2) intended to place the applicant on put-off duty, he would have passed such order even before submitting the report to R-2. The very fact that the memo dated 28-9-91 of R-1 refers to the message dated ²³⁻ ~~28-~~ 9-91 of R-2, it can be stated that R-1 issued memo only on the basis of the message dated 23-9-91 given by R-2. In the order dated 19-3-1993 of the Director of Postal Services, it is observed that the order of "put-off duty was issued by the Senior Superintendent of Post Offices vide his service order dated 23-9-91."

[Handwritten signature]

(25)

10. If that message dated 23-9-1991 was not referred to in the memo dated 28-9-1991 issued by R-1, then a doubt would have arisen on the basis of the body of the memo dated 28-9-1991 as to whether in fact the order dated 23-9-91 of R-2 was passed on that day or it was brought into existence later. But in view of the reference of the message dated 23-9-1991 of R-2 in the memo dated 28-9-1991 issued by R-1, and if in fact R-1 himself intended to place the applicant on put off duty on his own he would have done so even by 20-9-1991 the date on which he submitted the report to R-2, we cannot accept the contention for the applicant that note dated 23-9-1991 of R-2 placing the applicant on put off duty was brought into existence later.

11. It may be noted that R-2 directed that the order in placing the applicant on put off duty had to be communicated telegraphically. Even the order dated 19-3-1993 of the Director of Postal Services discloses that the said message was communicated telegraphically. Probably because of the same no order placing the applicant on put off duty might have been drafted and hence ^{question of} ~~it could not have been com-~~ ^{had not arisen} ~~municated~~ to the applicant. The confusion had arisen in R-1 stating in the memo dated 28-9-1991 that he was exercising the power under Rule 9(2) and it required ratification even after referring to the message dated 23-9-1991 of R-2. Merely because the Director of Postal Services by order dated 19-3-1993 directed furnishing a copy of the service message dated 23-9-1991 to the applicant for his information, it cannot be inferred therefrom that there was no order of R-2 placing the applicant on put off duty.

12. It is also stated for the applicant that in case of issual of order ~~of suspension~~ placing the Extra Departmental employee on put off duty, such order would refer to the

h

26

name of the concerned delinquent and it would also be addressed to such delinquent. But whenever an order is passed by the competent authority, formal order had to be granted by the office in the proper format, and after obtaining signature of the concerned authority or the authority ~~or the authority~~ deputed, the same will be communicated. But it is not for the competent authority to draft the formal order. As already observed the office in this case might have felt that there was no need to draft a formal order as the same was ordered to be communicated by telegraphic message and not by post. Ofcourse, this difficulty would not have arisen, if the formal order was drafted and communicated in confirmation of the telegraphic message. But merely because the same was not followed in this case, one cannot jump to the conclusion that the order dated 23-9-1991 of R-2 was brought into existence later.

13. Hence, we accept the contention for the respondents that it is R-2, the Appointing authority who had placed the applicant on put off duty by order dated 23-9-1991 and it was implemented by R-1 on receipt of the telegraphic message about the same. The same does not require any ratification. It is a valid order.

14. Hence, this OA fails and accordingly it is dismissed.
No costs.

(R. Rangarajan)
Member (Admn.)

(V. Neeladri Rao)
Vice-Chairman

Dated : January 20, 94
Dictated in the Open Court

Deputy Registrar (Jr)

To

1. The Sub Divisional Inspector, Postal, Sompeta Sub Divisional a/w Sompeta-532 284, Srikakulam Dist.
2. The Sr. Superintendent of Post Offices, Srikakulam, A/w Srikakulam-1.
3. The Director of Postal Services, O/o the Post Master General, Visakhapatnam.
4. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N. V. Raghava Reddy, Addl. OGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm

TYPED BY

COMPARED BY

CHECKED BY *gxt*

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

✓
THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

Dated *20-1-1994*

~~ORDER~~ JUDGMENT:

M.A./R.A./C.A. No. _____

in

O.A. No. *987/93.*

T.A. No. _____

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed off with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

