

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

O.A.No.1278 OF 1995.

Date of Order:3-3-1998.

Between:

M.Satyanarayana.

.. Applicant

and

1. The Post Master General,
State of Andhra Pradesh,
Hyderabad-500 001.

Indian Posts and Telegraphs;
Department, Samalkota Sub-Divnl.,
Samalkota, East Godavari Dist.

3. The Superintendent of Post Offices,
Kakinada Division, Kakinada, East
Godavari District.

.. Respondents

COUNSEL FOR THE APPLICANT : Mr.V.Venkateswara Rao

COUNSEL FOR RESPONDENTS : Mr.N.R.Devaraj

CORAM:

THE HON'BLE SRI A.V.HARIDASAN, VICE CHAIRMAN

AND

THE HON'BLE SRI H.RAJENDRA PRASAD, MEMBER (ADMN)

: O R D E R :

(AS PER HON'BLE SRI A.V.HARIDASAN, VICE CHAIRMAN)

Heard Mr.V.Venkateshwara Rao for the Applicant and
Mr.N.R.Devaraj for the Respondents.

2. The applicant while working as Extra Departmental Delivery Agent was proceeded under Rule 8 of the Extra Departmental Delivery Agent (Conduct and Service) Rules. After conclusion of the inquiry, the Disciplinary Authority imposed on him a penalty of dismissal from service. The Appellate Authority confirmed the penalty. The Applicant filed a writ petition no.6726/1985 before the High Court of A.P. challenging the legality propriety and correctness of the Orders of the Disciplinary Authority as also the Appellate Authority. After the commencement of the Administrative Tribunal's Act, 1985 the writ petition was transferred to this Bench of the Tribunal and the same was renumbered as TTA.No.944/86. By an Order dated 13-6-1989,

this Tribunal set aside the penalty of dismissal on the ground that the finding that the applicant was guilty was based on no evidence at all. However, the question of back wages was not determined in that case. The Applicant was reinstated in service on 10-9-1989. The applicant had made a representation even before his reinstatement seeking that he be reinstated and paid back wages for the period between the period of his dismissal from service and reinstatement. The respondents did not pay him the backwages and therefore, the applicant has filed this application praying that it may be declared that the applicant is entitled for full payment of back wages for the period between 30-10-1984 ie., the date of dismissal from service and 10-9-89 ie., the date of reinstatement with interest from 11-9-1989 and costs of the Application.

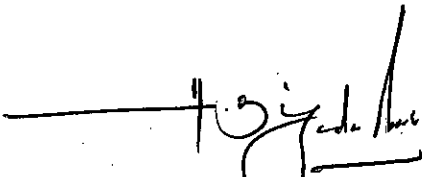
3. The respondents in their reply have contended that as the Applicant did not perform work during the period in question, he is not entitled to claim any back wages.


4. Sri V.Venkateswara Rao, the learned Counsel for the Applicant with considerable tenacity argued that as the dismissal of the applicant from service has been set aside as wholly unjustified, the natural and legal consequence is that the applicant should be deemed to have been continued in service during the period for which he was kept out and that the applicant be paid the entire back wages for the period. In support of this position the Learned Counsel invited our attention to a ruling of the Ernakulam Bench of the Tribunal titled C.S.USHA KUMARI Vs S.S.P.O. and Others, reported in 1993, 23 Administrative Tribunal cases 468 to which one of us (the V.C.) a party. The facts of the above case were identical with the case on hand. The applicant in that case was removed from service by an order of the Disciplinary Authority which was set aside by the High Court in the Writ Petition. There was no specific direction in the order of the High Court in regard to payment of back wages. The petitioner represented to the authority to pay him the backwages, for the period for which he

was kept out of work. As the request was~~not~~ not acceded to, he approached the Tribunal with the Original Application. The argument raised on behalf of the respondents before the Tribunal was that as there was no specific direction by the High Court for payment of back-wages as he had not^{worked}~~worked~~ during that period the petitioner was not entitled to get back wages. This argument was rejected by the Tribunal on the ground that once the dismissal from service is found to be illegal and unjustified, the natural and legal consequence^{is}~~is~~ that the dismissal did not take effect legally and that the employee should be deemed to have continued in service. The respondents were directed any reason to deviate from the view taken in that judgement. On the contrary, we are in respectful agreement with the view. The Hon'ble Supreme Court had in PYRARE LAL SHARMA Vs MANAGING DIRECTOR, J & K INDUSTRIES LIMITED (reported in Supreme Court Services Ruling Vol. IV, Page 13) held that where termination Order is set aside by the Court, ~~the~~ normally the servant becomes entitled to back wages and other consequential benefits.

4. The learned Counsel for the Respondents referred us to the Ruling of the Andhra Pradesh High Court in APSRTC Vs CHANDRA REDDY (reported in 1993(4) SLR Vol.90, Page 162). This judgement does not lay down any principle but was based only on the facts of the case. The Counsel brought to our notice a ruling of the Punjab and Harayana High Court, reported in 1993(2) SLR, Page 780 titled STATE OF PUNJAB Vs HARBHAJAN SINGH. The observation there is that the employee on reinstatement would not be entitled to backwages for the period of his absence. The facts of this case are entirely different. In this case, the applicant was not absent, but he was removed from service and was prevented from performing his duty. It is not a case where the applicant refused to work but a case where he was kept out of work. Under these circumstances, in the light of the judicial precedents cited above, we are of the considered view that the respondents had no option but to pay the full backwages. In the result,

the application is allowed and the respondents are directed to pay to the applicant the full backwages for the period between 13-7-1984 and 10-9-1989 with interest at the Government rate from 11-9-1989 within two months from the date of receipt of a copy of this Order. There is no order as to costs.


(H. RAJENDRA PRASAD)
MEMBER (A)


(A.V. HARIDASAN)
VICE CHAIRMAN

DATED: 3rd March, 1998

Dictated in Open Court


Deputy Registrar

js/DSN

O.A. 1278/95.

To

1. The Post Master General,
State of A.P. Hyderabad-1.

2. The Sub Divisional Inspector,
Indian Posts and Telegraphs, Dept.,
Samalkota Sub Division
Samalkota, E.G. Dist.

3. The Superintendent of Post Offices,
Kakinada Division, Kakinada EG Dist.

4. One copy to DR(A) CAT. Hyd.

5. One spare copy.

6. one copy to Mr. V. Venkateswar Rao Advocate CAT. Hyd.
pvm. one copy to Mr. N. R. Peirao, Sr. C. S. C. CAT. Hyd.

G. 102
19/3/98

I Court

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE AV Haipasan
VICE-CHAIRMAN (Ernakula Bench.)
AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

DATED: 3-3-1998

ORDER/JUDGMENT:

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

O.A.No. 1278ⁱⁿ/95

T.A.No. (W.P.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
दिल्ली/DESPATCH
17 MAR 1998
हैदराबाद बेंच
HYDERABAD BE