

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.367 of 1996

Date of judgement: 27.3.96

Between:

T. Manohar .. Applicant

and

1. The Superintendent of Post Offices,
Mahabubnagar.
2. The Postmaster General,
Hyderabad Region, Hyderabad.
3. The Chief Postmaster General,
A.P. Circle, Daksadan,
Hyderabad.
4. Union of India, represented by the
Secretary to the Department of Posts,
New Delhi. .. Respondents

COUNSEL FOR THE APPLICANT: Mr. K. Venkateswara Rao

COUNSEL FOR THE RESPONDENTS: Mr. V. Bhimanna, CGSC

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE CHAIRMAN

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

JUDGEMENT

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE CHAIRMAN)

Heard Shri K. Venkateswara Rao, learned counsel for the applicant and Shri V. Bhimanna, learned standing counsel for the respondents.

2. The applicant was involved in a criminal case and on that ground he was put off duty for the period

[Signature]

from 28.3.88 to 16.12.92. The applicant, however, was acquitted in the criminal case. Even so, by the impugned order dt. 14.12.92 while revoking the put off duly order, the Superintendent of Post Offices has ordered that the applicant is not entitled to any pay and allowances for the period he was under put off duty.

3. We agree with the learned counsel for the applicant that in view of the decision of the Hon'ble Supreme Court in the case of Secretary, Ministry of Communications v. S.Gundu Achary in C.C.No.457/90) and other Civil Appeals dated 10.7.95, Rule 9(3) of the P&T EDA (Conduct & Service) Rules 1964 is no longer a valid provision. Since the impugned order disentitles the applicant to the pay and allowances in terms of Rule 9(3), that cannot be sustained in law. The order of the Supreme Court itself further directs as a consequence of striking down the said rule that it will be open to the Union of India to examine each case to reach a conclusion as to whether the individual is entitled to the salary for the period when he was kept off duty under Rule 9(1) of the rules. It, therefore, follows that the respondents have to independently examine the question of entitlement of pay and allowances to the applicant for off duty period taking into account all circumstances surrounding the order for putting him off duty but without reference to Rule 9(3). ~~xxxxxx~~ That exercise has not been done and, therefore, we are inclined to direct the same. Since the applicant was not proceeded in any disciplinary proceeding, no



question of giving him an opportunity to show cause can arise and it will be the matter for the authorities of the respondents to examine his case on merits as indicated above.

4. Although the applicant has relied upon the decision of the Supreme Court which was rendered on 10.7.95, he had not filed any representation to the respondents thereafter to review the order dated 14.12.92~~g~~ to the extent pay and allowances were denied to him. We, therefore, think it appropriate that the applicant submits an application through the Respondent No.1 who may himself decide or may forward it to the higher authority if so ~~deserved~~ ^{required} for a decision in the light of the observations made herein above.

5. We would also like to mention here that in the above mentioned order of the Supreme Court, it has been left open to the Government of India to reexamine the matter and if it so chooses, to frame a new set of rules substituting Rule 9(3). The learned counsel for the respondents states that to the extent his instructions go, so far no step in this direction has been taken by the Government of India. Appropos to the instant case, we feel that it will be desirable for the Government of India to reexamine the matter and if it is so inclined, then to frame new set of rules and till then issue general guidelines to all the postal authorities in the matter so as to avoid persons like the applicant being

fall

required ~~as~~ to approach the Tribunal on the strength of the Supreme Court's judgement whereby Rule 9(3) has been struck down. Hence, the following order:-

The applicant to file a representation to the Respondent No.1 within a period of two weeks from today. On such a representation being received, Respondent No.1 shall dispose it of on merits in ^{the} light of the ~~above~~ observations made herein above within a period of 12 weeks from the date of receipt of the representation. It is left open to the Respondent No.1 to place the representation for consideration before the Respondent No.3, if so desired.

6. We indicate to the Respondent No.4 to reexamine the matter as mentioned in the order of the Hon'ble Supreme Court and take a decision in respect of the new set of rules and in the meantime to issue guidelines to the Postal authorities as regards the matter in which such cases are to be dealt with in the light of the order of the Supreme Court.

7. OA is disposed of finally at the admission stage in terms of the aforesaid order.

H. Rajendra Prasad
(H. RAJENDRA PRASAD)
MEMBER (ADMN.)

M.G. Chaudhary
(M.G. CHAUDHARI)
VICE CHAIRMAN

DATED: 27th March, 1996.
Open court dictation.

*Ansari
Asstt.*
Deputy Registrar (J)

To

1. The Superintendent of Post Offices,
Mahabubnagar.
2. The Postmaster General,
Hyderabad Region, Hyderabad.
3. The Chief Postmaster General, A.P.Circle,
Daksadan, Hyderabad.
4. The Secretary to the Dept.of Posts,
Union of India, New Delhi.
5. One copy to Mr.K.Venkateswar Rao, Advocate, CAT.Hyd.
6. One copy to Mr.V.Bhimanna, Addl.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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3/4/96
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

M.G. Chaudhuri
THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND
B. Raghunatha Prasad
THE HON'BLE MR. R.RANGARAJAN : M(A)

Dated: 27-3 -1996

ORDER/JUDGMENT

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

O.A.No. 367/96 in

T.A.No.

(w.p.No.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected:

No order as to costs.

all OA copies

No. Space copy

