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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.812/97

Date: 8-7-1997.

Between:

Mohd Yousuf Khan. .. Applicant.

And

1. Union of India represented by its Secretary and Director-General (Posts) Dept., of Posts, Ministry of Communications, Dak Bhavan, New Delhi - 110 001.
2. The Chief Post Master-General, Andhra Circle, Dak Sadan, Abids, Hyderabad.
3. The Director of Accounts (Postal), Andhra Circle, Dak Sadan, Hyderabad. .. Respondents.

Counsel for the applicant: Sri B.S.A. Satyanarayana

Counsel for the Respondents: Sri Vinod Kumar.

JUDGMENT.

(by Hon'ble Shri H. RAJENDRA PRASAD, Member (A). *8/80*

Heard Sri B.S.A. Satyanarayana for the applicant and Sri Vinod Kumar for the respondents.

2. It would appear that during 1976 and 1985 the applicant was very frequently absent due to illness owing to kidney disorders and was consequently forced to apply for leave in different spells very often. ~~long period~~. The applicant was finally cured after his damaged kidney was removed in 1985.

3. The applicant was charged under Rule 14 of

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for  
CCS(CCA) Rules for his recurring absences and neglecting his work. A penalty of reduction by three stages of pay (from Rs.360/- to Rs.330/-) in the time scale of pay of Junior Accountant was imposed on the applicant in November, 1986. It was also specified that he would not be entitled to draw his increments during the period of reduction without, however, affecting future increments. A petition submitted by the applicant was considered and rejected by the Post Master General. Thereafter, the applicant has continued to submit representations. Finally, by the impugned Order (Annexure A-1 dated 14.3.1987) his request was rejected by Respondent No.2.

4. The grievance of the applicant is that by treating the period of 5 years 2 months as non-qualifying service, he is put to heavy loss both in terms of fixation of pay and pensionary benefits (his due date of superannuation is 2002) as also in related matters such as delayed confirmation and subsequent promotions to which he may have, or may become eligible. He submits that his absences were owing to acute illness, that eventually one of his kidneys had had to be removed, that his illness is confirmed by valid Medical certificates by competent medical authorities from time to time. He also draws attention to the fact that after 1985, his attendance and general performance have considerably improved.

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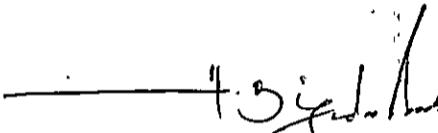
5. In the light of what is stated on behalf of the applicant, his request would seem to deserve a very sympathetic consideration. Even though the petition of the applicant was rightly rejected in 1987 on the basis of facts available at that point of time, the request of the official made in the light of the facts subsequently disclosed needs reconsideration, on the strength of his improved attendance and performance if factually borne out. If indeed the frequent absence for nearly 5 years was due to illness, then treating such a long period as dies-non would doubtless adversely affect official's normal expectations and interests. The absence from duty does not seem to be on account of inefficiency or unwillingness to work but owing to genuine inability due to sickness. It is rightly submitted by the applicant that the treatment of such long period as dies-non and non-qualifying service would amount to double jeopardy since he had already been punished with reduction in pay for the same lapses under Rule 14 of CCS (CCA) Rules in 1986.

6. It would therefore be desirable for Respondent No.2 to reconsider the case, review his decision in Annexure I, and to take a humane and judicious view in the matter. For this purpose, I direct the applicant to file a comprehensive representation, through Respondent No.3, to Respondent No.2 who shall thereupon examine

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the whole question as sympathetically as feasible. The applicant shall submit his representation within 15 days from today, and on its receipt, Respondent No.2 shall forward it within a week to Respondent No.3 who may consider the representation of the applicant as indicated. The O.A., is disposed of accordingly. No costs.

  
H. RAJENDRA PRASAD,  
MEMBER (A)

Date: 8-7-1997.

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Dictated in open Court.

  
Deputy Registrar (S) CC

sss.

O.A.812/97.

To

1. The Director General (posts) Dept., of Posts, Ministry of Communications, Dak Bhavan, Union of India, New Delhi-1.
2. The Chief PostMaster General, Andhra Circle, Dak Sadan, Abids, Hyderabad.
3. The Director of Accounts ( Postal ) Andhra Circle, Dak Sadan, Hyderabad.
4. One copy to Mr.B.S.A.Satyanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.V.Vinodkumar, Addl.CGSC.CAT.Hyd.
6. One copy to HHRP.M(A) CAT.Hyd.
7. One spare copy.
8. One copy to D.R.(A) CAT.Hyd.

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*CC to day*  
~~Self~~ 24/7/97 T COURT  
TYPED BY CHECKED BY  
COMPARED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE  
VICE-CHAIRMAN

and

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

Dated: 8 - 7 - 1997

~~ORDER/JUDGMENT~~

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

in

O.A.No.

812/97

T.A.No.

(w.p.)

Admitted and Interim directions  
Issued

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

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