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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.408/99

DATE OF ORDER : 15-2-2000

Between :-

G.Gangaiah

...Applicant

And

1. Superintendent of Post Offices,
Cuddapah Division, Cuddapah.

...Respondent

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Counsel for the Applicant : Shri Y.Appala Raju

Counsel for the Respondents : Shri B.Narasimha Sarma, Sr.CGSC

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CORAM:

THE HON'BLE JUSTICE SHRI D.H.NASIR : VICE-CHAIRMAN

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri Y.Appala Raju, learned counsel for the applicant and Sri M.C.Jacob for Sri B.N.Sarma, for the Respondents.

2. The applicant was initially appointed as a regular EDBPM, Kothaboyanapalli BO under Madhavaram SO in Cuddapah Division of Andhra Circle with effect from 16.12.1978. Due to the construction of reservoir at Somasila, the Branch Office was closed and the applicant was treated as thrown out ED Agent from 13.8.1988. The appointment of EDBPMs at Cuddapah was initiated vide order No.B2/B/Waiting/II dated 27-4-1989 (Annexure-III page-9 to the OA) and the applicant was asked to give his choice in any one of the Post Offices for being posted as ED Agent and that willingness should be given before 10.5.1989. There was no reply from the applicant till 23.7.1989. On 23.7.1989 the applicant submitted a representation to the Superintendent of Post Offices, Cuddapah stating that he was not in a position to go out of the village as he is physically handicapped and requested to appoint him as Branch Postmaster, Kothaboyanapalle Branch Office in account with Mannur Sub Office which was not opened by that time. In view of the above, the Respondents removed his name from the thrown out ED Agents list by memo dated 13.10.1989 following the DGP & T Letter dated 23.2.1979. After opening Branch Office at Kothaboyanapalle in account with Mannur Sub Post Office, the applicant was considered and appointed as Branch Postmaster, Kothaboyanapalle on provisional basis with effect from 27.3.1991 and thereafter he was

regularly appointed. The applicant submits that from 13.9.1988
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to 26.3.1991 he was without job and that period should be counted as service for him as he was thrown out due to the natural calamity. He could not give his willingness to go to any of the Post offices as he was a physically handicapped person and on that basis his case should have been decided giving the benefit of counting the period from 13.9.1988 to 27.3.1991 without any wages.


3. The applicant filed a representation in this connection dated 15.4.1997 (Annexure- IV page-10 to the OA) for condonation of break in service which was not agreed to by the Director by order dated 8.10.1997 (Annexure-I page-7 to the OA).

4. This OA is filed to set aside the impugned order dated 8.10.1997 rejecting to condone the break with effect from 13.9.1988 to 27.3.1991 and consequently direct the respondents to regularise his old services from the date of his appointment with all consequential benefits.

5. There is no satisfactory explanation from the applicant as to why he could not give his willingness to the letter dated 27.4.1989. If he gives his willingness before 10.5.1989, it can be presumed that the applicant was interest^{ed} in the job and because of the physically handicappedness he could not go to far of place and that made him to give his unwillingness to accept the posting to any one post office indicated in the letter dated 27.4.1989. But the applicant waited and replied on 23.7.1989 probably expecting that his willingness or otherwise take into

logical conclusion if he had given his views on or before 10.5.1989. That makes us believe that he is asking for condonation of break in service without discharging the duties as required. In that view no firm order can be given in this OA. The applicant is a physically handicapped person. Hence some mercy should be shown to him. In that view, we direct that the Directorate should re-consider the orders passed on 8-10-1997 and pass sympathetic orders in that connection.

6. With the above direction, the OA is disposed of. No order as to costs.



(R. RANGARAJAN)
Member (A)



(D.H. NASIR)
Vice-Chairman

Dated: 15th February, 2000.
Dictated in Open Court.



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