

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
J A I P U R

Date of order : 30th April, 2001.

O.A.NO. 157/2000

Bhura Ram Jat S/o Shri Pala Ram aged about 53 years, R/o Village and Post Ramsinghpura and presently holding the post of Extra Departmental Branch Post Master (E.D.B.P.M.) Ramsinghpura, E.D.B.O. (Kotputli) Distt. Jaipur.

.....Applicant.

VERSUS

1. Union of India through its Secretary to the Govt. of India, Department of Posts, Ministry of Communications, Dak Bhawan, New Delhi - 110 001.
2. Director Postal Services, Jaipur Region, Jaipur - 302001
3. Superintendent of Post Offices, Jaipur (M), Postal Division, Jaipur 302 016.

.....Respondents.

Mr. C.B.Sharma, Advocate
Mr. S.S.Hasan, Advocate

For the applicant.

For the respondents.

C O R A M :

HONOURABLE MR. A.K.MISRA, JUDICIAL MEMBER
HONOURABLE MR. S.K.AGRAWAL, ADMINISTRATIVE MEMBER

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O R D E R
(Per Hon'ble Mr.A.K.Misra, J.M.)

The Applicant had filed this Application with the prayer that the order of the respondent No. 3 dated 6.4.1999 (Annex.A-1), be quashed and the respondents be directed to treat the applicant on duty for the period of removal dated 9.1.1998 to 31.12.1998 and be further directed to release Pay and Allowances of the said period.

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2. Notice of the O.A. was given to the respondents who have filed their reply to which no rejoinder was filed.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. From the pleadings of the parties, following undisputed facts emerge :

5. The applicant was working as Extra Departmental Branch Post Master (E.D.B.P.M.), Ramesinghpura in account with Kotputli S.O. from 20.8.1962. In the year 1964 to fill-up the vacant post of Group 'D' from the Extra Departmental Agents, special report along with the educational qualification and date of birth certificates of the eligible Extra Departmental Agents were called-for from all Sub Divisional Heads. The applicant submitted educational qualification certificate and a certificate in respect of his birth. On verification from the concerned authorities the certificate submitted by the applicant in support of his date of birth was found to be false and bogus and consequently he was served with a Chargesheet. After due inquiry, the disciplinary authority came to the conclusion that the case of the applicant is of the nature of gross mis-conduct and the penalty of removal of the applicant from service was imposed on him vide order dated 31.12.1997. The applicant preferred an appeal as provided under the rules against the said order of removal. The Appeal of the applicant was partly accepted and the punishment was reduced by the appellate authority debarring the applicant for recruitment on a Group 'D' post for a period of three years. In consequence of the appellate order the applicant joined duties on 1.1.1999. On a representation having been made by the applicant, the Department passed the impugned order

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Annex.A/1 dated 6.4.1999, treating him not entitled to any pay and allowances for the period of removal during which he rendered no service to the department. It is against this order that the applicant had approached this Tribunal.

6. We have considered the aforesaid controversy in the light of the Rules. The Extra Departmental Agents (Conduct and Service) Rules, 1964, (for short 'the Rules'), do not provide as to how the period of removal should be regulated in such cases of reinstatement. The Rule 9 of the Rules provides in respect of the period of put off duty. The Proviso to Sub Rule (3) of Rule 9 of the Rules says that "provided further that in the event of an ED Agent being exonerated he shall be paid full admissible allowance for the period of put off duty. In other cases, such allowances for the put off duty can only be denied to the ED Agents after affording him an opportunity and by giving cogent reasons."

7. In this case, the applicant was not completely exonerated but his punishment of removal was reduced and he was debarred for being considered for appointment in Group 'D' post for a period of three years. Since there is no specific provision, therefore, the applicant was refused the payment for that period. No doubt, the applicant had represented for paying the amount in respect of the aforesaid period but in fact the departmental authorities should have taken a decision in this regard by giving a notice to the applicant as to how the period of removal was required to be treated for purposes of pay and allowance and for continuity of service. But, no notice was given by the authorities to the applicant before passing the impugned order dated 6.4.1999. In this order it has also not been mentioned as to how the period of removal shall be regulated for further computation of the applicant's service. Therefore, the impugned period deserves to be re-considered.

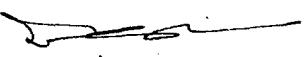
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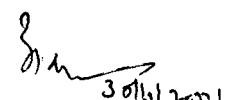
by the departmental authorities.

8. As noted above, there is no specific provision under the Rules regulating the period of removal in case of re-instatement, therefore, help from the parallel rules can also be taken by the concerned authorities. In this regard, Rule 54 of the F.R.S.R. could be helpful in which it is also provided that the competent authority may determine after giving a notice to the government servant, of the quantum of pay and allowances proposed to be paid for the period of removal and after considering the representation, if any submitted by him in that connection within such period as may be specified in the notice. Therefore, the matter relating to treating the period of removal of the applicant for purposes of payment of pay and allowances and for treating the same for duties, deserves to be re-considered. Therefore, the O.A. deserves to be accepted.

9. The O.A. is, therefore, accepted. The Order Annex.A/1 dated 6.4.1999 is hereby quashed. The Respondents are directed to reconsider the matter and pass a fresh reasoned order keeping in view the provisions of Rule 7 of the Extra Departmental Agents (Conduct and Service) Rules, 1964 and also the provisions of Rule 54 of Fundamental and Supplementary Rules, in respect of the period of removal i.e. from 9.1.1998 to 31.12.1998 for purposes of payment of continuity of service pay and allowances, and other service benefits within a period of three months from the date of receipt of a copy of this order.

10. The parties are left to bear their own cost.


(S.K.Agrawal)
Adm.Member


30/1/2001
(A.K.Misra)
Judl.Member

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mehta