

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT CAMPT AT BILASPUR

Original Application No. 118 of 2002

Bilaspur, this the 9th day of September, 2004

Hon'ble Mr. M.P.Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

B.P.Dubey
S/o Late Shrinivas Dubey
Age about 47 years,
Office Assistant,
O/o Supdt. of Post Offices,
Bilaspur Division, Bilaspur.

Resident at : Near C.S.E.B. Office
Raipur Road, Tifra,
Bilaspur(CG)

APPLICANT

(By Advocate - Shri B.P.Rao)

Versus

1. Union of India,
Through : The Secretary,
Department of Posts,
Ministry of Communication,
Sanchar Bhawan, New Delhi.
2. The Member(P)
Postal Services Board,
Govt. of India, Deptt. of Posts,
Ministry of Communication,
Sanchar Bhawan, New Delhi.
3. The Sr. Supdt. of Post Offices,
& Adhoc Disciplinary Authority,
Bhopal Region,
Bhopal(M.P.)

RESPONDENTS

ORDER (ORAL)

By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought the following main reliefs :-

"8.1 to quash the impugned order No.BSP/COn/A-Dak. 19/90 passed by Sr. Supdt. of Post Offices, Bhopal Division, Bhopal dated 6.4.1990(Annexure-A-10).

8.2 to quash the order No.1-67/95-VP passed by Member(P), Postal Services Board, New Delhi.(respondent No.-2) on 22.12.1999, alongwith order No. F 5-2/89-90/797 dated 5.2.2001passed by respondent no.4(Annexure- 22) in the interests of justice.

8.3 to direct the respondents to treat the entire period from 9.4.1986 to 16.2.1995 as spent on duty for all the purposes, by directing the respondents to recalculate the seniority of the applicant for the purpose of promotions."

:: 2 ::

2. The brief facts of the case are that the applicant was initially appointed as Postal Assistant and in the course of employment, w.e.f. 1.3.1985, he was posted at Baradwar Post Office. A false complaint was lodged by the Superintendent of Post Office, Bilaspur on 10.4.1986. Subsequently, the applicant was placed under suspension vide order dated 9.4.86 and a charge sheet was issued to him. According to the applicant an enquiry officer has been appointed and without appreciating the grounds urged is Departmental Enquiry, and the applicant's representation dated 13.2.1990 and also without giving any chance of personal hearing, imposed the penalty of dismissal from service on the applicant w.e.f. 6.4.1990 vide order dated 6.4.1990 (Annexure-A-10). The applicant had preferred an appeal to the appellate authority dated 7.5.1990 (Annexure-A-11). Vide order dated 13.2.1995, the applicant was reinstated back in service. Although the applicant was reinstated back in service but he was not fully exonerated and no decision was communicated to him regarding the entire period from 9.4.1986 to 13.2.1995. Hence, the applicant has submitted a review application before Member(P) New Delhi. In the mean while, the OA No.793/93 was disposed of by the Tribunal on 6.8.1998 directing the respondents to pass a proper order in regard to the retirement of period from the applicant's date of suspension to the date of reinstatement i.e. from 9.4.1986 to 15.2.1995 within 2 months from the date of receipt of copy of order. According to the applicant the respondents have passed the order on 22.12.99 without considering the grounds raised by the applicant in his representation dated 10.9.1999. Hence this OA.

3. Heard the learned counsel for the parties and perused the available material on records.

4. The learned counsel for the applicant has argued that the applicant was reinstated in service vide order dated 13.2.1995(Annexure-A-14) by which the punishment order of dismissal was quashed and the order of reduction in pay to the minimum of the scale of pay of Rs.975-25-1150-EB-30-1660 for a period of 2 years from the date of was passed reinstatement in the service/with a further direction that during the period of reduction the said official will not earn increments of pay and that this reduction will have the effect of postponing his future increments of pay. The applicant was reinstated on 13.2.1995 but he was not was fully exonerated and no decision/communicated to him the regarding/entire period of 9.4.1986 to 15.2.1995, Hence he submitted a review application before Member(P) New Delhi and in the meantime Tribunal vide order dated 6.8.98 has directed the respondents to pass a proper order in regards to the treatment of period from the applicant's date of suspension to the date of reinstatement i.e. from 9.4.1986 to 15.2.1995 within 2 months from the date of receipt of copy of this order. In compliance of the respondents have passed an order dated 22.12.1999. The learned counsel for the applicant further stated that without considering the representation of the applicant, the respondents passed the aforesaid order dated 22.12.99 and thereafter the applicant submitted another representation dated 21.3.2000 and ~~xxxx~~ the respondents have passed order also dated 5.2.2001 without/considering this representation of the applicant. Hence both the aforesaid orders are against the rules and law.

5. In reply the learned counsel for the respondents argued that the applicant was not fully exonerated from the charges. Earlier vide order dated 6.9.1990 he was dismissed from service but the appellate authority while deciding the appeal modified the penalty of dismissal to

QJ

reduction of pay which does not mean that the applicant was exonerated from the charges levelled against him and the respondents fully complied with the direction given by the Tribunal in OA No.783/93 by passing the order dated 22.12.99(Annexure-A-20) whereby the aforesaid period from 9.4.86 to 16.2.95 was regulated as duty for the purpose of pension only and not for any other purpose and this order was confirmed by subsequent order dated 5.2.2001 (Annexure-A-22). Hence the respondents fully complied with the directions given by the Tribunal.

6. After hearing both the parties and careful perusal of the records, we find that the applicant was placed under suspension on 9.4.86 and the order of dismissal from service was passed on 6.4.90(Annexure-A-10). The appellate authority has modified the penalty of dismissal to that of reduction in pay to the minimum of the scale of pay of Rs.975-25-1150-FR-30-1660 for a period of 2 years from the date of reinstatement in the service with a further direction that during the period of reduction the said official will not earn increments of pay and this reduction will have the effect of postponing his future increments of pay. It apparently shows that the applicant was not fully exonerated from the charges levelled against him. Thereafter, the Tribunal has passed the following order in OA No783/93 on 6.8.98 which is as under :-

"2 The submission of the applicant is that the initial punishment of dismissal from service was modified by the appellate authority to that of reduction in pay for a period of two years. The applicant was therefore reinstated in service in the year 1995. The only grievance of the applicant is that the period from the date of his suspension to the date of reinstatement is to be regularised by passing of a proper order. We accordingly allow this application with a direction to the respondents to pass an order in this regard within two months from today."



Accordingly, the respondents have passed order dated 27.12.1999 whereby it is ordered that "(a) period from 9.4.86 to 16.2.95 be regulated as duty for the purpose of pension only and not for any other purpose; (b) the pay and allowances of the period from 9.4.86 to 5.4.90 are restricted to the subsistence allowance and other allowances already paid; and (c) the pay allowances for the period from 6.4.90 to 16.2.95 are restricted to the subsistence allowance and other allowances which Shri B.P. Dubey was drawing before his dismissal." The aforesaid order dated 27.12.99 was confirmed by subsequent order dated 5.2.2001 (Annexure-A-22). We find that the applicant has claimed pay and allowances for the period from 9.4.86 to 16.2.1995. But when he did not work during this period and also the appeal of the applicant was not allowed but merely the punishment of dismissal from service was modified that of reduction in pay he cannot claim the pay and allowances for the aforesaid period. We also find that the applicant was not fully exonerated from the charges levelled against him. It is the discretion of the respondents to pass an appropriate order regarding regularisation of the aforesaid period. The respondents have fully complied with the directions given by the Tribunal in the aforesaid OA.

7. After considering the all the facts and circumstances of the case, we do not find any merit in this OA. Accordingly, the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
पतिलिपि अन्ये दिल:-

(1) सचिव, उच्च अदालत व दस्तऐवं अधिकारी, जबलपुर
 (2) आवेदन: श्री/श्रीमती/यु. के काउंसल
 (3) प्रतार्दद: श्री/श्रीमती/यु. के काउंसल

~~C4) व्यापार, देशों, असामकु व्यापारीठ~~

BB Rao
n. no. 12/661, Prem Nager

Sikola Bhata, Durg

our main

Issued
On 7-10-04
BB