

**THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR  
ORDER SHEET**

APPLICATION NO.: \_\_\_\_\_

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

OA No. 354/2007.

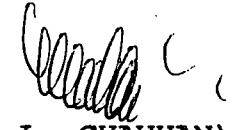
5.10.2007.

Mr. C.B. Sharma counsel for the applicant.

Heard. The OA has been disposed of by a separate order.

  
(S. P. SHUKLA)

ADMINISTRATIVE MEMBER

  
(M. L. CHAUHAN)

JUDICIAL MEMBER

P.C./

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No. 354/2007.

Jaipur, this the 5<sup>th</sup> day of October, 2007.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.  
Hon'ble Mr. J. P. Shukla, Administrative Member.

Pratibha Hada  
W/o Shri Laxman Singh Hada,  
Aged about 50 years,  
R/o 151, Ballabh Badi,  
Kota.

... Applicant.

By Advocate : Shri C. B. Sharma.

Vs.

1. Union of India  
Through its Secretary to the Government of India,  
Department of Posts,  
Ministry of Communication and Information Technology  
20 Ashoka Road, Dak Bhawan,  
New Delhi 110 001.
2. Post Master General,  
Rajasthan Southern Region,  
Ajmer 305 001.
3. Director,  
Postal Services,  
Rajasthan Southern Region,  
Ajmer.
4. Senior Superintendent of Post Offices,  
Kota Postal Division,  
Kota.

... Respondents.

: O R D E R (ORAL) :

The applicant has filed this OA thereby praying for the following reliefs :-

"(i) That respondents may be directed to treat period 29/9/2004 to 8/5/2005 as spent on duty for all purposes including pay and allowances by quashing memos dated 3/8/2007, 4/7/2007 and 18/4/2007 (Annexure A/1, A/2 and A/3) with the show

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cause notices dated 17/11/2006, 28/6/2007 and 20/7/2007 (Annexure A/9, A/14 and A/16) with all consequential benefits.

(ii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.

(iii) That the costs of this application may be awarded."

2. We have heard the Learned Counsel for the applicant at admission stage.

3. By way of this OA, the applicant is challenging 3 different orders i.e. order dated 3.8.2007 (Annexure A/1), order dated 4.7.2007 (Annexure A/2) and order dated 18.4.2007 (Annexure A/3). Learned Counsel for the applicant further submits that he has also filed appeal against the order dated 18.4.2007 (Annexure A/3) but the same was not entertained by the authorities on the ground that no appeal lies against the order treating the period as dies non. Learned Counsel for the applicant has drawn our attention to Sub Rule (iv) (a) of Rule 23 and also sub Rule (V) (e) of CCS (CCA) Rules, 1965, which stipulates that an order which denies or varies to his disadvantage his pay, allowances, pension or other conditions of service and also determining his pay and allowances for the period of suspension is appealable order. Prima facie, we are of the view that the appeal of the applicant could not have been rejected in view of the specific provisions contained in sub rule (iv) (a) and (v) (e) of Rule 23 of CCS (CCA) Rules, 1965. As such, it

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was incumbent upon the Appellate Authority to entertain the appeal of the applicant. Learned Counsel for the applicant submits that since the appeal of the applicant against Annexure A/3 was rejected, he has not filed any appeal against other two orders Annexure A/1 & A/2. Since the appeal is maintainable and there is a statutory alternative remedy available to the applicant, which is more efficacious and speedy, we are of the view that the present OA is premature at this stage in view of the law laid down by the Apex Court in the case of S. S. Rathore vs. State of M.P., 1990 SCC (L&S) 50 and cause of action in terms of Section 20 and 21 of the Administrative Tribunals Act <sup>will</sup> which arise only when the appeal is disposed of by the Competent Authority or in case such appeal is not disposed of within 6 months after the expiry of the period of six months.

4. Thus, without entering into the merits of the case, the present OA is disposed of at admission stage and it will be open for the applicant to file an appeal against the impugned orders Annexure A/1 , A/2 & A/3 before the appropriate authorities and in case such appeals ~~were~~ <sup>are</sup> filed before the Appellate Authority, the same shall be disposed of within a period of six months from the date of receipt of appeal by passing a speaking and reasoned order.

*W.C.*

5. With these observations, the OA is disposed of. It is made clear that in view of the stand taken by the respondents that the appeal is not maintainable, the Appellate Authority shall not dismiss the appeal of the applicant on the ground of limitation in case the same is presented within a period of three weeks from today.



(J. P. SHUKLA)  
ADMINISTRATIVE MEMBER



(M. L. CHAUHAN)  
JUDICIAL MEMBER

P.C./