

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

O.A.No.252/2015

Ahmedabad, this the 21st day of February, 2018

Coram :

Hon'ble Dr. K.B.Suresh, Member (J)

Hon'ble Shri K.N.Shrivastava, Member (A)

Shri Natwarsinh K Khant
S/o. Shri Kalusinh Khant
Aged 61 years,
R/o. 104, Meghmalhar Apartment
Bazaar Street, Dungri,
District : Valsad 396 375. Applicant
(Advocate : Ms. S.S.Chaturvedi)

VERSUS

1. Union of India
Notice to be served through
Chief Post Master General
Khanpur, Ahmedabad 380001.
2. Shri Sanjay Akhade
Sr. Supdt. of Post Office
Valsad Division,
Thithal Cross Road,
Valsad .
3. Senior Post Master
Valsad Division,
Thithal Cross Road,
Valsad Respondents
(By Advocate : Ms. Prachi Upadhyay)

ORDER (ORAL)

Per : Hon'ble Dr. K.B. Suresh, Member (J)

The applicant was suspended for some infraction. Apparently, the concerned authority made a mistake in calculating the subsistence allowances as they say that the interregnum period was reckoned as leave without pay, which is now sought to be recovered. The applicant was working as a Postmaster at that time.

2. It appears that vide Annexure A-4, an order was passed while revoking the suspension that such a period when he was under suspension will be treated as period of leave without pay. This is beyond the competency of the concerned authority to pass such an order. He has no power to pass such an order as no Government servant need to work without pay. This is not as if *dies non* has been imposed. It is beyond the power of the concerned authority to do so as subsistence allowance is a special grant under jurisprudence.

3 Hence, this order will not lie under the law. Therefore, there can be no recovery from the applicant. The impugned order is hereby quashed. It is to be noted that when punishments are to be imposed, it can only be within the parameters of the rules. It cannot be imposed on the *whim and fancy* of the concerned official. Therefore, this cannot be considered as a

proper order. It has paved the way of unnecessary litigation. Therefore, we do not see any reason to burden the applicant for this litigation. The OA is allowed with the cost of Rs.5000/- (Rupees Five Thousand only) payable to the applicant.

(K.N.Shrivastava)
Member (A)

(K.B.Suresh)
Member(J)

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