

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

OA No.476/2017 with MA No.421/2017

Ahmedabad, this the 14th day of August, 2018

**Hon'ble Ms. Archana Nigam, Administrative Member
Hon'ble Shri M.C.Verma, Judicial Member**

Shri Abdul Gafur Murtuza Malek
DOB : 11.9.1954, Age 63 years
Son of Shri Murtuza Mohmmad Malek
Postal Assistant (Rtd.)
Udhna Sub Post Office- 395 110.
Residing at : 302, Yashu Apartments
Nr. Tata Girls School, Dasturvad,
Navasari 396 445. Applicant

(By Advocate : Shri A.D.Vankar)

VERSUS

1. Union of India,
Notice to be served through
The Secretary to the Govt. of India
Ministry of Communication & I.T.
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi 110 001.

OA/476/2017 with MA No. 421/2017
CAT, Ahmedabad Bench

2. Chief Postmaster General
Gujarat Circle, Khanpur,
Ahmedabad 380 001.
3. Postmaster General
Vadodara Region
Vadodara 390 002.
4. Sr. Supdt. of Post Offices
Surat Division,
Surat 395 00..... Respondents

(By Advocate : Ms. Prachi Upadhyay)

ORDER – ORAL

Per : Hon’ble Shri M.C.Verma, Judicial Member

MA No.421/2017, preferred for condonation of delay has been pressed. Learned counsel for Applicant urged that matter relates to payment of gratuity and that due to compelling reasons, he could not file the OA within time, he explained the circumstances and prayed to condone the delay and to allow the MA. Learned counsel for Respondents vehemently opposed the request of Applicant and according to her the OA itself is not maintainable. Considered the submission. In view of entirety, the delay, if any, is condoned and MA No.421/2017 is allowed.

2. This matter relates for payment of gratuity. It transpires from record that Criminal case is pending against Applicant. Learned counsel for Respondents drew our attention towards Rule 69 (1)(c) of CCS (Pension) Rules, 1972 and submits that OA is premature and not maintainable. Learned counsel urged that his case is covered by proviso attached to Clause (1)(c) of Rule 69.

3. The relevant portion of Rule 69 (1)(c) of CCS (Pension) Rules, 1972 is as under:

"(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon :

Provided that where departmental proceedings have been instituted under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, for imposing any of the penalties specified in Clauses (i), (ii) and (iv) of Rule 11 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant."

4. We do not find any substance in submission of learned counsel of Applicant that his case is covered by proviso of Clause (1) (c) of Rule 69 of CCS (Pension) Rules, 1972. Proviso

relates to the department proceedings only whereas in the present case, it is judicial proceedings, which is pending. Having considered the entirety and the factual scenario of the matter, it transpires that at present the case of the applicant is covered by clause (1)(c) of Rule 69 of CCS (Pension) Rules, 1972. The OA thus is premature, is not maintainable and deserves dismissal and hence, is dismissed.

(M.C.Verma)
Member (J)

(Archana Nigam)
Member (A)

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