

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : GWALIOR

Original Application No.202/00951/2016

Gwalior, this Tuesday, the 23rd day of October, 2018

HON'BLE MR. R. RAMANUJAM, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Bahadur Singh Bhadauria, S/o Shri Subedar singh Bhadauria, Aged – 52 years, Occupation – Sub Post Master, Sub-Post Office, Kelaras, Distt. Morena, R/o Opp. Rest House, God Gali Antri, Keleras (M.P.)
-Applicant

(By Advocate – Shri S.C. Sharma)

V e r s u s

1. Union of India through the Secretary, Ministry of Communication and IT, Department of Post (GDS Section), Dak Bhawan, Sansad Marg, New Delhi – 110001.
2. Superintendent of Post Offices, Chambal Division, Morena 76001.
3. Post Master General, Postal Services, Indore Region, Indore – 452001.
4. Chief Post Master General, M.P. Circle, Bhopal – 462012
- Respondents

(By Advocate – Shri Akshay Jain)

O R D E R (O R A L)

By R. Ramanujam, AM.

Heard. The applicant has filed this Original Application seeking following reliefs:

“8.1 That, the order of Respondent no.2 vide No.B4-112/VV-III/2012-13 Morena dated 18.10.2012 contained in Annexure A/5, order of Respondent no.3 vide no. Staff 3/B/02/2015-16 Indore dated 28/30.10.2015 contained in Annexure A/8 and the order of respondent no.4 vide Memo No. STA/8-6/2016 Bhopal dated 17.03.2016 contained in Annexure A/9 may kindly be quashed.

8.2 That, the respondents may kindly be directed to grant with-hold increments to applicant and remove all adverse effects in service on account of ‘dies non’.

8.3 Any other suitable relief which this Hon’ble Tribunal deems fit be also allowed with cost Rs.10,000/-.”

2. It is submitted that the applicant was absent from duty from 28.06.2012 to 17.10.2012 for a period of 139 days as he was mentally disturbed. However, the competent authority without going into the justification for the absence in terms of the medical records produced by the applicant, passed Annexure A-5 order dated 18.10.2012 treating the period of absence as dies non. The applicant filed Annexure A-7 appeal dated 29.07.2015 there against which was rejected by Annexure A-8 order dated 28/30.10.2015 on the ground that the appeal was not submitted within the time limit prescribed under the rules. It was also held that the applicant had failed to explain the reasons for delay in submitting the appeal.

3. The applicant filed a Revision Petition against the order of the appellate authority, which was also rejected by Annexure A-9 order dated 17.03.2016 on the same ground. It is alleged that as the applicant was mentally unsound, he could not report for duty and for the same reason he was also unable to submit his appeal either in time or with reasons for the delay duly explained thereafter. Accordingly, it is prayed that the competent authority may be directed to decide the appeal of the applicant on merits in terms of documentary and oral evidence available in his favour.

4. Shri Akshay Jain, learned counsel appearing for the respondents would oppose the prayer contending that the applicant was never mentally ill. The medical certificates produced by him would only indicate that he was suffering from jaundice which was not a sufficient reason for unauthorised absence from duty for such a long period.

5. We have considered the submissions by the rival counsel. We are of the view that since the appeal has not been decided on merits and it is submitted that the applicant was mentally disturbed during the relevant period, the applicant's case could be considered on merits in terms of any evidence he might wish to produce to support his contention. Accordingly, we deem it appropriate to set

aside the orders passed by the Appellate Authority and the Revisionary Authority and direct the Appellate Authority to consider the appeal of the applicant on merits taking into account any evidence the applicant may produce to support his claim and pass a reasoned and speaking order within a period of two months from the date of receipt of a certified copy of this order. It is clarified that we have not gone into the merits of the case and it shall be open to the respondents to appraise the evidence on record to arrive at their own conclusion including on the claim that the applicant was mentally unsound during the relevant period.

6. O.A is disposed of with above terms. No costs.

(Ramesh Singh Thakur)
Judicial Member

(R. Ramanujam)
Administrative Member

am/-