

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA/020/860/2015

Dated: 11.01.2018

BETWEEN:

Syed Baleshahe,
S/o. Jani Sab, aged about 53 years,
Occ: Postal Assistant,
Avanigadda HO,
Avanigadda, A.P. – 521 121.

.... Applicant

AND

1. Union of India rep. by
The Director of Postal Services,
A.P. Region,
O/o Post Master General,
Vijayawada – 520 003.
2. The Superintendent of Post Offices,
Machilipatnam Division,
Machilipatnam – 521 001.

... Respondents

Counsel for the Applicant : Mr. K. Sudhakar Reddy
Counsel for the Respondents : Mr. M. Brahma Reddy,
Addl. CGSC.

CORAM

Hon'ble Mr. K.N. Shrivastava, Administrative Member

ORAL ORDER

{Per Hon'ble Mr. K.N. Shrivastava, Administrative Member }

The applicant is a Postal Assistant working under Respondent No.2. He was placed under suspension vide Annex. A-1 order dated 16.11.2013 with a contemplation to start disciplinary proceedings against him. A charge sheet dated 2.1.2014 came to be issued to the applicant. The applicant challenged the said charge sheet before this Tribunal in O.A. No.458/2014 which was allowed by this Tribunal vide order dated 6.1.2016. The Tribunal found that out of the eight charges levelled in the charge sheet, five were flimsy and granted liberty to the respondents to proceed against the applicant after deleting those charges. Pursuant to the Tribunal's order, the Respondents issued a fresh charge sheet dated 28.4.2016.

2. The applicant had challenged his suspension vide Annex.A-1 order dated 16.11.2013 before this Tribunal in O.A. No.1535/2013 which was allowed vide order dated 11.7.2014. The operative part of the order reads as under:

“7. In view of the facts and circumstances of the case, we find lot of force in the arguments of the learned counsel for the applicant and we hold that the impugned suspension order dated 16.11.2013 is not sustainable either under law or on facts. Hence, we have no hesitation to quash and set aside the same and accordingly, the same is quashed and set aside.”

3. The Respondents challenged the Tribunal's order dated 11.7.2014 in O.A. No.1535/2013 before the Hon'ble A.P. High Court in W.P. No.33612/2014. The Hon'ble High Court was pleased to stay the

operation of the Tribunal's order. As a result, the suspension of the applicant continued.

4. The grievance of the applicant is that he was placed under suspension almost four years ago vide order dated 16.11.2013. But he is continuing to get Subsistence Allowance @ 50% of his salary. Through the medium of this O.A., the applicant has prayed for enhancement of the Subsistence Allowance from 50% to 75% in terms of Rule 53 of Fundamental Rules. He has also claimed interest @ 18% on the differential amount of the Subsistence Allowance i.e. differential of 50% & 75%.

5. During the course of hearing today, Mr. M. Brahma Reddy, learned counsel for the Respondents submitted that the applicant has not been co-operating with the Inquiry Officer for completion of the on-going inquiry and the delay in completion of the disciplinary proceedings is entirely attributable to the applicant. This argument of Shri Reddy cannot be acceptable for the simple reason that nothing prevents the Inquiry Officer in proceeding *ex parte* against the applicant in case he feels that the applicant is not co-operating with the inquiry proceedings. Be that as it may, the fact remains that the applicant has remained under suspension for over 4 ½ years and has been getting Subsistence Allowance only @ 50% of his salary. I feel that the ends of justice would meet by granting the prayer made in this O.A. for enhancement of the Subsistence Allowance from 50% to 75%. Accordingly ordered. It is however, made clear that this enhancement is prospective in nature and shall be effective

from 01.02.2018.

6. The Applicant is directed to fully co-operative with the Inquiry Officer and efforts should be made jointly by the Applicant and the Respondents to conclude the disciplinary proceedings within three months. No order as to costs.

(K.N. SHRIVASTAVA)
ADMN. MEMBER

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