

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. O.A.350/00756/2016

Date of order : 30.06.2016

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

NIRMAL KUMAR BERA

VS.

UNION OF INDIA & ORS.
(Post)

For the applicant : Mr. A. Chakraborty, counsel
Ms. P. Mondal, counsel

For the respondents : Mr. B.B. Chatterjee, counsel

ORDER

Per Ms. Jaya Das Gupta, A.M.

Heard both sides.

2. It appears that the applicant, Sri Nirmal Kumar Bera was placed under suspension w.e.f. 14.09.2015 on the allegation that he is involved in booking of speed post articles destined for NTD which are chargeable at outside Kolkata rate but booked in TD Mode and charged at Kolkata rate resulting in shortfall in Government revenue.

3. By an order dated 18.03.2016 the Review Committee further extended the suspension of the applicant for a further period of 90 days with effect from 12.03.2016 without alteration of Subsistence Allowance. The authorities also on 13.06.2016 lodged at Muchipara Police Station a case against the applicant which is under investigation under relevant sections of rules vide Muchipara Police Station FIR No.211 dated

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23.06.2016 as submitted by Id. counsel for the respondents on 30.06.2016.

4. The impugned order dated 18.03.2016 is set out below:-

"Government of India
Ministry of Communications & I.T., Department of Post
O/o the Sr. Supdt. Of Post Offices, Central Kolkata Divn.
Kolkata-700 007

Sri Nirmal Kumar Bera
I.P.A. Park Street, IIPO(Under Suspension),
Kolkata-700016
2/9C Dum Dum Road,
Kolkata-700030

No.1 6-30/09/15-16/N.K. Bera Dated at Kolkata-700007, the 18.03.2016.

Sub : Regarding the minutes of the Review Committee i/e/w continuation of suspension of Sri Nirmal Kumar Bera, the then Asstt. Manager, Dharmatala B.O. now P.A., Park Street HPO, Kolkata-700016(now under suspension) involved in leakage of Revenue at Dharmatala B.O.

Apropos aforesaid subject you are hereby intimated that as per the recommendation of the Review Committee headed by DPC(KR), O/o CPMG, WB Circle, Kolkata-700012 your suspension period has been extended for a further period of Ninety (90) days wef 12.03.2016 without alteration of Subsistence Allowance.

Sr. Supdt. Of Post Offices,
Central Kolkata Division,
Kolkata-700007."

5. Against such impugned order the applicant has approached the Central Administrative Tribunal under Section 19 of Administrative Tribunals Act, 1985 seeking the following reliefs:-

"(I) Memo dated 18.03.2016 issued by respondent no.4 cannot be sustained in the eye of law and therefore the same may be quashed.

(II) An order do issue directing the respondent no.4 to revoke order on suspension and to allow the applicant to join in duty."

6. The grievances of the applicant are that his suspension order was not revoked and continuing for a long time and also his Subsistence Allowance is being continued at the same rate which was fixed initially.

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7. Counsel for the applicant also pointed out that the applicant was transferred in the meantime from the place where allegedly he committed the misconduct and that his suspension cannot be continued indefinitely.

8. We note from the impugned order dated 18.03.2016 that the Subsistence Allowance has not been altered. The competent authority may decide after the review of the suspension order, not to vary the quantum of Subsistence Allowance after first three months i.e. neither to increase nor to decrease the same but they have to place on record the circumstances under which such decision has been taken. This reason for continuing the same rate of Suspension Allowance is missing in the impugned order.

9. On the above facts nevertheless any interference of C.A.T. is not required at this stage since a statutory forum of appeal is available to the applicant.

10. Hence, it is directed that the applicant should make a statutory appeal to the competent authority for redressal of his grievances within one month from getting a certified copy of this order and the Appellate Authority after condoning the delay if any of filing such appeal counted from the date of impugned order, shall consider the appeal of the grievance raised by the applicant within a period of three months from getting the appeal and give a detailed reasoned order. It is reiterated that we have not gone into the merit of the case and all points are kept open for the respondents..

11. The O.A. is disposed of with the above observations. No cost.

(Jaya Das Gupa)
Administrative Member
s.b

B. Banerjee
(B. Banerjee) 10.7.16
Judicial Member