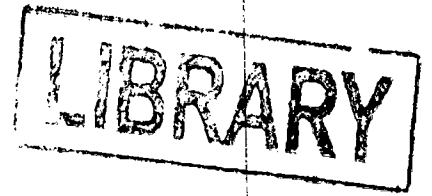


CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/213/2017

Date of order : 1.12.2017

Present: Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

MANSARAM SINGH SARDAR,
S/o Kalu Singh Sardar,
R/o Vill & PO - Kadampur,
PS - Arsha, Dist. - Purulia
Pin - 723201.

...APPLICANT

VERSUS

1. The Union of India, through
The Secretary,
Ministry of Communications & Information,
Sanchar Bhawan,
20 Ashoke Road,
New Delhi - 110001.
2. The Superintendent of Post Offices,
Purulia Division,
Post Office & Dist. - Purulia,
Pin - 723101.
3. The Assistant Superintendent of
Post Offices (HR),
Purulia Division,
PO & Dist. - Purulia,
Pin - 723101.
4. The Sub Divisional Inspector of
Post Offices,
Purulia West Sub Division,
PO & Dist. - Purulia
Pin - 723101.

...RESPONDENTS.

For the applicant : Mr. A. Jana, counsel

For the respondents: Mr. S. Banerjee, counsel

O R D E R

Per Ms. Manjula Das, Judicial Member

Mr. A. Jana, Id. Counsel appeared for the applicant and Mr. S. Banerjee, Id.

Counsel appeared for the respondents.

2. The issue before us is reinstatement of the applicant in his service and to pay the minimum suspension allowance from the date of suspension i.e. 23.1.1996.

3. Heard both the Id. Counsels and perused the pleadings and materials placed on record.

4. Mr. Jana, Id. Counsel for the applicant submitted that the applicant while serving as Extra Departmental Delivery Agent at Kadampur Branch Office Purulia with Arsha Police Station, was placed under put off duty on 3.1.1996 by the authority. He further submitted that the applicant was not granted the suspension allowance from the date of suspension. It was further submitted that the applicant was acquitted from the criminal charge vide order dated 24.2.2016, despite that ^{neither has} the applicant ~~has not yet~~ been re-instated nor suspension allowance has been paid to the applicant. The applicant as such prays for immediate re-instatement as well as arrear salary along with usual interest.

5. On the other hand at the outset of his arguments, Id. Counsel for the respondents submitted that the matter is barred by limitation as the applicant never challenged the suspension order dated 3.1.1996 and by now the applicant has already been retired from service and thus the matter cannot be entertained.

6. Having heard the Id. Counsels for both sides, perusing all the pleadings and materials placed before us, we note that the applicant was put off duty vide order dated 3.1.1996 vide Annexure A/1 which states hereunder :

"Whereas enquiry regarding wrong payment/non payment of money orders against Sri Mansaram Singh Sardar, EDDA, Kadampur BO in a/c with Garhjoypur SO is pending.

Now therefore I the undersigned Rule 9 of P&T ED Agents (Conduct and Service) Rules, 1964 put Sri Mansaram Singh Sardar, EDDA, Kadampur BO off duty with immediate effect.

Shri Mansaram Singh Sardar will not be entitled to any allowance for the period for which he is kept off duty under this rule."

7. The department investigated the matter for alleged offence and thereafter conducted the departmental enquiry. After that the department came to the finding that the applicant misappropriated the government money to the tune

of Rs.34,549/- only during the period from 15.12.1995 to 26.12.1995. Thereafter the department lodged a complaint in the police station having jurisdiction.

8. The point to be decided is to whether the matter is barred by limitation as stated by the ld. Counsel for the respondents as well as from the materials in hand. The order of put off duty was issued on 3.1.1996 and it is noted that the applicant did not avail of all the alternative remedies before the authority for revocation of the put off duty and he slept over the matter for long years and thereafter vide legal notice dated 6.1.2017 agitated before the authority with a claim that after acquittal the applicant ought to have been reinstated and be paid the allowances. As we have noted above the applicant did not approach before this Tribunal within the stipulated period under Section 21 of the Administrative Tribunal's Act, 1985 which provides as under :

"21. Limitation -

(1) A Tribunal shall not admit an application -

- (a) In a case where a final order such as is mentioned in clause (a) of sub section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub section (2) of section 20 has been made and a period of six months had expired thereafter without such final order aiving been made, within one year from the date of expiry of the said period of six months."

Further, sub-section 3 of Section 21 of the said Act, provides as under :

"Notwithstanding anything contained in sub-section applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

More so in the case of **Bhoop Singh -vs- Union of India & Ors. [1992 AIR 1414]** the Hon'ble Supreme Court has observed as under :

"Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim if a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief."

We have noted that the applicant was sleeping over the mater so long and no sufficient reasons have been explained for condonation of such delay.

The maxim 'vigilantibus, non dormientibus, jura sub-veniunt' (law assist those who are vigilant not those who are sleeping over their rights) is appropriate to the matter in hand.

9. Therefore in our opinion the OA is hopelessly barred by limitation and is therefore dismissed. No costs.

(DR. NANDITA CHATTERJEE)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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