

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. O.A. 350/00326/2017

Date of order: 10.3.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member

Anup Kumar Halder,
Son of Late Ajit Kumar Halder,
Aged about 46 years,
By Occupation Service,
Residing at Duttapukur Hospital Road,
Post Office and Police Station - Duttapukur,
North 24 Parganas,
Pin - 743248, West Bengal.

.. Applicant

- V E R S U S -

1. Union of India,
Service through the Secretary,
Ministry of Communication,
Department of Posts,
Dak Bhawan,
New Delhi - 110 001.
2. The Chief Postmaster General,
Yogayog Bhawan,
C.R. Avenue,
Kolkata - 700 012.
3. The Director of Postal Services,
Kolkata Region,
Yogayog Bhawan,
C.R. Avenue,
Kolkata - 700 012.
4. The Superintendent of Post Offices,
Barasat Division, Barasat,
Kolkata - 700 124.

.. Respondents

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. B.P. Manna, Counsel

ORDER (Oral)

On being mentioned during mention hour by Mr. A. Chakraborty, Ld.

Counsel for the applicant, that his case (O.A. No. 350/00326/2017) may be



taken up on urgent basis because the matter cannot wait till 17.3.2017, as this Tribunal will be closed for Holi vacations and there is no Vacation Court, accordingly this matter is taken up on urgent basis.

2. Heard Mr. A. Chakraborty, Ld. Counsel for the applicant and Mr. B.P. Manna, Ld. Counsel who usually appears for Union of India and is present in Court and on my advice Mr. A. Chakraborty, Ld. Counsel serves a copy of the O.A. on Mr. B.P. Manna, Ld. Counsel appearing for Union of India.

3. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunal Act, 1985 seeking the following reliefs:-

"(a) Declaration that recovery of more than 1/3rd amount from the salary of the applicant by the respondent authorities is bad in law and therefore the same may be quashed.

(b) An order do issue directing the respondents not to deduct further the amount of more than 1/3rd from the salary of the applicant and to refund the amount already deducted more than the permissible limit in favour of the applicant at an early date without prejudice to the rights and contention of the applicants in the Disciplinary proceedings."

4. The Ld. Counsel for the applicant submitted that on 28.4.2016 the applicant was served with a charge-sheet for his negligence for which the respondent Department sustained a loss of an amount of Rs. 2,28,994.52/- in MIS account. Disciplinary proceeding was initiated against the applicant on 9.2.2017 which culminated into the imposition of penalty of recovery of an amount of Rs. 2,28,998/- from the pay of the applicant @ Rs. 20,000/- per month in eleven instalments and residual amount of Rs. 8998/- in 12 instalments. The applicant preferred an appeal against the said order of punishment on 18.2.2017, which is still pending before the authorities. Thereafter a proceeding was also initiated against the applicant for negligence caused by the applicant in discharging his duties which culminated into the recovery of any amount of Rs. 50,660/- from the pay of

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the applicant @ Rs. 15,000/- per month in instalments, vide order of punishment dated 17.1.2017. Pursuant to the liberty granted by this Tribunal the applicant preferred one representation on 27.2.2017. The Ld. Counsel for the applicant fairly submitted that the applicant has already preferred an appeal/representation on 27.2.2017 addressed to the respondent No. 3 against the order of the disciplinary authority but as the disciplinary authority without waiting for the outcome of the appeal is proceeding with the recovery, that is why the applicant has rushed to this Tribunal seeking redressal of his grievance.

5. On being questioned as to why the applicant cannot wait till the outcome of the appeal, as in my considered view two concurrent proceedings cannot continue simultaneously and there is a strict bar that when a statutory forum is created, without exhausting the remedy available this Tribunal cannot adjudicate or give any consideration to any grievance, Mr. A. Chakraborty, Ld. Counsel for the applicant fairly submitted that after imposition of the penalty, the applicant's take home salary is Rs. 4121/- whereas his gross salary is Rs. 49,416/-. Mr. A. Chakraborty, Ld. Counsel further submits that the applicant is a servant under the Union of India and as per the Govt. of India rules more than 1/3rd amount from the gross salary cannot be deducted. To fortify his argument, Mr. A. Chakraborty, Ld. Counsel brought to my notice the rule position which has been annexed to the O.A. as Annexure "A-3" (page 36), which is an extract of Rule 108 of Postal Manual Volume III.

6. Mr. A. Chakraborty, Ld. Counsel submitted that the grievance of the applicant would be more or less addressed if a specific time frame may kindly be granted to the said appellate authority i.e. respondent No. 3 to dispose of the appeal/representation dated 2.3.2017 and till such time

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consider staying the order of imposition of recovery amount.

7. As I have not expressed any opinion on the merits of the case, till then I hope and trust that in case the applicant moves a petition for staying the operation of the disciplinary authority's order so far as the recovery is concerned then the same may be addressed suitably. The respondent No. 3 is also directed that if any such appeal/representation has been preferred on 2.3.2017 and still pending consideration then the same may be considered and disposed of by way of a well reasoned order within a period of two months from the date of receipt of a copy of this order and if after such consideration the applicant's grievance is found to be genuine then expeditious steps may be taken within a further period of three months from the date of such consideration to extend those benefits to the applicant.

8. I make it clear that till the appeal/representation dated 2.3.2017 is considered and disposed of, the appellate authority may stay further recovery from the salary of the applicant.

9. With the aforesaid observation/direction this O.A. stands disposed of.

10. As prayed for by Mr. A. Chakraborty, Ld. Counsel a copy of this order be handed over to Mr. B.P. Manna, Ld. Counsel, who may suitably communicate the same to the concerned respondent No. 3.

11. Certified copy of this order be handed over to Ld. Counsel for both sides as per rules.

(A.K. Patnaik)
Judicial Member