

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00027/2018

DATED THIS THE 08TH DAY OF MARCH, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

Gururaj B. Kulkarni,
S/o Baburao Kulkarni,
Aged 44 years, working as
Postal Assistant,
Kalburgi Head Post Office,
Residing at C/o Gopalrao Kalburkar,
Srihari Nagar,
Near Siddeshwar Kalyan Mantap,
Old Jewargi Road,
Kalburgi – 585 102
(By Advocate Shri A.R. Holla) Applicant

Vs.

1. Union of India
By Secretary
Department of Posts,
Dak Bhavan,
New Delhi-110 001.

2. The Postmaster General

N.K. Region,
Dharwad – 580 001

3. The Director of Postal Services,
O/o Postmaster General,
N.K. Region,
Dharwad – 580 001

4. The Senior Superintendent of Post Offices
Kalburgi Division
Kalburgi – 585 101

....Respondents

(By Shri S. Sugumaran, Counsel for the Respondents)
O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. The crux of the issue is available in Page No. 17 of the OA in the operative portion of the punishment imposing order which we quote:

“Order

I, Dr P M Saravanan, Director Postal Services S K Region, Bangalore holding additional charge of Director Postal Services N K Region hereby order that the pay of Shri Gururaj B Kulkarni Ex P A Yadgiri HO be reduced from Rs. 10120 to Rs. 5200 in the pay band 1 of Rs. 5200-20200 + Grade Pay of Rs. 2400 for a period of three years with effect from the date of joining on reinstatement. It is further directed that Shri Gururaj B Kulkarni Ex PA Yadgiri HO will not earn increase in pay during the period of reduction and that on the expiry of this period the reduction will have the effect of postponing his future increase in pay.

2. It is further ordered that the period of suspension from 10.3.2005 to 5.12.2005 be treated as suspension for all purposes.

3. The order regarding regularization of period from the date of removal till the date of reinstatement will be issued separately.

*Sd/-
(P.M. Saravanan)
Director of Postal Services
S.K. Region, Bangalore 560 259”*

2. The crux of this issue is the word ‘increase’ in line 7 and line 9. This means that, assuming his pay is Rs. 12,500/- at the time of imposition of

punishment, next year his pay might be Rs. 13,000/- . After that, it will be Rs.13,500/- and then it will be Rs. 14,000/- . Now, on a logical reasoning, what is stated to be in the order is that this pay increase will be ignored and it will have the effect of postponing future increase in pay. It is only a grammatical miscalculation by the concerned official and it has to be read logically and rationally as this proposed increase will have to be ignored. That means that he will have to go back to the earlier pay or Rs. 12,500/- at the time when he was imposed the punishment. That is the way it should be looked and not in any other way. Therefore, applicant will be eligible for retracing his step back to the earlier point of time when he had a quantum of pay at that time of imposition. That pay will now be restored to him.

3. The Respondents rely on Rule 5 in relation to a DoPT OM No. 11012/2/2005-Estt. (A) dated 14.05.2007 which we quote:

“5. Attention in this connection is also invited to the Government of India, MHA O.M. No. 9/13/92-Estt. (D) dated 10.10.1962 and No. 9/30/63-Estt. (D) dated 07.02.1964 which stipulates that an order imposing the penalty of reduction to a lower service, grade or post or to a lower time-scale should invariably specify the period of reduction unless the clear intention is that the reduction should be permanent or for an indefinite period. These instructions also indicate the manner in which the order should be framed when the reduction is for specified period of indefinite period. In case the intention of the Competent Authority is to award the penalty of reduction on permanent basis, the same may be specifically stated in the order so that the intention is conveyed to the Government servant in unambiguous terms and he is afforded full opportunity for submission of his appeal as provided in the rules.

[DOPT OM No. 11012/2/2005-Estt. (A), dated 14th May, 2007]

4. The normal understanding of the rules is that the postponing of future increase in pay means that within the currency of the punishment and not after that. Therefore, applicant has a right to have his pay restored as on the

date of imposition of punishment. This is declared.

5. The OA is allowed. Benefits to be made available to the applicant within one month next. No order as to costs.

(C.V. SANKAR)

(DR.K.B.SURESH)

MEMBER (A)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00027/2018:

Annexure-A1: Copy of the order dated 04.08.2010

Annexure-A2: Copy of the order dated 11.08.2011

Annexure-A3: Copy of the order dated 12.11.2011

Annexure-A4: Copy of the applicant's representation dated 15.03.2016

Annexure-A5: Copy of the order dated 04.04.2016

Annexure-A6: Copy of the applicant's representation dated 01.06.2017

Annexure-A7: Copy of the order dated 30.11.2017

Annexures referred in reply statement:

Annexure-R1: Copy of the Memo dated 17.08.2018

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