

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00052/2018

DATED THIS THE 14TH DAY OF MARCH, 2019

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

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

B.M. Manturgimath,
Aged 59 years,
S/o M.R. Manturgimath,
Ex-GDS MD, Ramnagar SO – 581 453
Under Sirsi HO,
Residing at Ramnagar – 581 453,
Sirsi District
(By Advocate Shri B. Venkateshan)

..... Applicant

Vs.

1. The Union of India,
Represented by the Secretary,
Department of Posts, Dak Bhavan,
New Delhi – 110 001

2. The Postmaster General,
NK Region, Dharwad – 580 001

3. The Superintendent of Post Offices,
Sirsi Division, Sirsi – 581 402

4. The Assistant Superintendent of Post Offices (HQ),
O/o the Superintendent of Post Offices,
Sirsi – 581 402
(By Shri V.N. Holla, Senior Panel Counsel)

....Respondents

O R D E R (ORAL)

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

Heard. The matter in a nutshell is that a man and his wife were both recipients of destitute pension. The wife died in September while in October it is alleged that her pension had been accepted by somebody. The case of the applicant is that it has been accepted by the husband and, under normal parlance, if a person is not to be found in the house a member of the family can accept. The applicant would submit that near about the completion of the enquiry he had given a list of witnesses including the name of the husband also but unfortunately the IO had not permitted him and that has vitiated the enquiry.

2. When a departmental enquiry is conducted, it is the duty of the enquiry authority to co-relate the issues against the applicant and apprise him of that which should be *pari materia* to 313 examination in a criminal trial. Thereafter, it is the duty of the enquiry authority to ask the delinquent employee whether he has any defence evidence to offer. Unless these are in the record, that enquiry stands vitiated. It is admitted case of the respondents also that such an opportunity was not given to the applicant. Therefore, that enquiry stands vitiated. At this point of time, Shri V.N. Holla,

learned counsel for the respondents, would submit that this document was not a relevant document. The relevancy or not of a document is not for the respondents to decide at that point of time. It is within the exclusive province of the applicant or the producer of such a document to postulate whether the document is relevant or not. The relevancy can be examined only at the time it is produced and it has been examined. Such is not the case here. Therefore, this enquiry stands vitiated and it is hereby set aside with all its consequences. It will be as if applicant is taken back into service as on the date of the impugned order. All the benefits which flows from it will be extended to him within one week next.

3. But, at the same time, from that period onwards we will now permit the respondents to conduct a denovo enquiry and pass appropriate orders after giving appropriate opportunity to the applicant. We now note one thing also that the impugned order was in 2015 but applicant came to Court in 2018. The interregnum pay and allowances will not be applicable to him.

4. The OA is allowed to this extent. No order as to costs.

(C.V. SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00052/2018:

- Annexure-A1: Copy of the Memo dated 30.08.1982
- Annexure-A2: Copy of the Memo dated 13.03.2013
- Annexure-A3: Copy of the memo dated 06.09.2013
- Annexure-A4: Copy of the applicant's representation dated 25.09.2013
- Annexure-A5: Copy of the letter dated 26.09.2013
- Annexure-A6: Copy of the Memo dated 26.09.2013
- Annexure-A7: Copy of the applicant's representation dated 26.12.2013
- Annexure-A8: Copy of the order sheet dated 24.01.2014 of the Inquiry Officer
- Annexure-A9: Copy of the applicant's representation dated 31.01.2014
- Annexure-A10: Copy of the applicant's representation dated 03.05.2014
- Annexure-A11: Copy of the applicant's representation dated 28.02.2014
- Annexure-A12: Copy of the Memo dated 21.04.2014
- Annexure-A13: Copy of the memo dated 28.07.2014
- Annexure-A14: Copy of the applicant's representation dated 23.08.2014
- Annexure-A15: Copy of the applicant's representation dated 27.09.2014
- Annexure-A16: Copy of the applicant's representation dated 27.10.2014
- Annexure-A17: Copy of the applicant's representation dated 18.12.2014
- Annexure-A18: Copy of the letter dated 09.09.2014
- Annexure-A19: Copy of the Memo dated 22.09.2014
- Annexure-A20: Copy of the letter dated 21.10.2014
- Annexure-A21: Copy of the letter dated 06.01.2015
- Annexure-A22: Copy of the applicant's representation dated 08.08.2014
- Annexure-A23: Copy of the applicant's representation dated 22.11.2014

Annexure-A24: Copy of the applicant's representation dated 10.03.2015
Annexure-A25: Copy of the Inquiry Report dated 15.05.2015
Annexure-A26: Copy of the applicant's written brief dated 05.06.2015
Annexure-A27: Copy of the Memo dated 28.07.2015
Annexure-A28: Copy of the applicant's appeal dated 22.08.2015
Annexure-A29: Copy of the Memo dated 10.11.2015

Annexures with reply statement:

Annexure-R1: Copy of the Money Order dated 03.10.2012
Annexure-R2: Copy of the Money Order dated 03.11.2012
Annexure-R3: Copy of the death certificate of Smt Indumati
Annexure-R4: Copy of the statement of Smt. Vaibhavi Vaman Bondelkar
Annexure-R5: Copy of the daily order sheet dated 24.01.2014

* * * * *