

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00869/2018

Dated Monday the 9th day of July Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

R.Malathi,
SPM, Lawspet SO, (Officiating),
Pondicherry 605008.Applicant

By Advocate M/s. S. Arun

Vs

1.Union of India,
rep by Director of Postal Services,
Chennai City Region,
Tamil Nadu Circle,
Chennai 600002.

2.The Sr. Superintendent of Post Offices,
Pondicherry Division,
Pondicherry 605001.Respondents

By Advocate Mr. K. Rajendran

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“To set aside Memo No. B1/175 dated 24.07.2017 and Memo No. VIG/APP/2-34/2017/CCR dated 19.01.2018 passed by the 2nd and 1st respondents respectively and consequently direct the 2nd respondent to grant applicant her leave salary for the period between 01.06.2013 to 17.12.2013 along with interest at the rate of 12 % per annum till the date of actual payment and pass such other orders as are necessary to meet the ends of justice.”

2. Learned counsel for the applicant submits that the applicant had been subjected to a departmental enquiry at the end of which an order dated 24.07.2017 was passed imposing a penalty of lowering of pay by one stage from Rs. 60400 to Rs. 58600/- in pay matrix level 7 for a period of three years. It was also directed that the official would earn increment during the period of reduction and on expiry of the period, the reduction would not have the effect of postponing the future increments of pay. The period of unauthorised absence of the applicant was also directed to be treated as dies non.

3. On an appeal submitted by the applicant to the competent authority, Annexure A10 order dated 19.01.2018 came to be passed enhancing the penalty to that of reduction of pay by two stages from Rs. 60400 to Rs. 56900 for a period of 18 months with cumulative effect with a direction that the applicant would not earn increments during the period of reduction and that at the expiry of the period, the

reduction would have the effect of postponing the future increments of pay. It is submitted that the applicant's grounds for the alleged unauthorised absence had not been given a fair consideration in the light of the medical opinion supported by relevant documents.

4. On perusal, it is clear that the order passed by the appellate authority challenged in this OA could be appealed against in terms of the Rule 23 of the CCS CCA Rules, the relevant portion of which is extracted below:

“ Subject to the provisions of Rule 22, a Government servant may prefer an appeal against all or any of the following orders, namely :-

(iii) an order enhancing any penalty, imposed under Rule 11;”

5. Learned counsel for the applicant would submit that since the rule states that the Government servant “may” prefer an appeal, it should be left to the discretion of the applicant whether to file an appeal or to approach the Tribunal directly.

6. I have considered the matter. In terms of Section 20 (1) of the Administrative Tribunals Act, 1985, the aggrieved Government servant could approach this Tribunal only after exhausting all the remedies available to him under the relevant service rules as to redressal of grievances. The Tribunal shall not ordinarily admit an application unless satisfied that the applicant has availed the remedies.

7. No case is made out herein as to why it was necessary for the applicant to approach this Tribunal directly in this case. There is

nothing 'extraordinary' in this case for the Tribunal to interfere at this stage. Accordingly, the applicant is permitted to file an appeal to the competent authority within a period of two weeks from the date of receipt of copy of this order. On receipt of such appeal, the competent authority is directed to consider the same in accordance with the rules and pass an appropriate order. In the facts and circumstances of the case, it is directed that as the applicant has approached this Tribunal without being aware of the relevant provisions, the time limit imposed by Rule 25 of CCS CCA Rules for preferring such appeal shall be waived. The respondents shall dispose of the appeal on merits preferably within a period of three months from the date of receipt of appeal.

8. OA is disposed of with the above direction at the admission stage.

(R. Ramanujam)
Member(A)
09.07.2018

SKSI