

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

**MA/310/00398/2018 & MA/310/00399/2018
in & OA/310/01155/2017**

Dated Thursday the 26th day of July Two Thousand Eighteen

PRESENT

**HON'BLE MR. R. RAMANUJAM, Member (A)
&
HON'BLE MR. P. MADHAVAN, Member (J)**

V.Ramesh,
Sub Postmaster (Under Suspension),
Kandanur PO 630104.
Karaikudi Postal Division.Applicant

By Advocate M/s. P. Satyanarayan

Vs

Union of India rep by,
1.Chief Postmaster General,
Tamil Nadu Circle,
Chennai 600002.

2.Director of Postal Services,
O/o Postmaster General,
Southern Region, Madurai 625002.

3.Superintendent of Post Offices,
Karaikudi Postal Division,
Karaikudi 630003.Respondents

By Advocate Mr. G. Dhamodaran

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 reliefs :

" To call for the records related to the proceedings (i) F1/IV-1/2016-17 dt. 12.05.2016, (ii) F1/IV-1/2016-17 dt. 02.08.2016, (iii) F1/IV-1/2016-17 dt. 19.10.2016, (iv) F1/IV-1/2016-17 dt. 03.11.2016, (v) F1/IV-1/2016-17 dt. 30.01.2017, (vi) F1/IV-1/2016-17 dt. 25.04.2017 issued by the 3rd respondent and (vii) F1/IV-1/2016-17 dt. 25.04.2017 issued by the 3rd respondent and memo no. VIG/15-13/16-17/MA dt. 03.10.2016 issued by the 2nd respondent and quash the impugned order (i) No. F1/IV-1/2016-17 dt. 02.08.2016, (ii) F1/IV-1/2016-17 dt. 19.10.2016, (iii) F1/IV-1/2016-17 dt. 03.11.2016, (iv) F1/IV-1/2016-17 dt. 30.01.2017, (v) F1/IV-1/2016-17 dt. 25.04.2017, (vi) No. F1/IV-1/2016-17 dt. 25.10.2017, (vii) F1/IV-1/2016-17 dt. 22.01.2018 issued by the 3rd respondent and the impugned proceedings no. VIG/15-13/16-17/MA dt. 03.01.2016 passed by the 2nd respondent as arbitrary and illegal and direct the respondents

1. To revoke the order of suspension with immediate effect
2. To pay enhanced subsistence allowance @ 75% for the period of suspension beyond the first 90 days with reference to the revised scales of pay implemented w.e.f. 01.01.2016 and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice. "

2. Learned counsel for applicant submits that the applicant was suspended on 12.05.2016 and the suspension has been continued till date and extended up to 28.10.2018 by the latest order dt. 17.07.2018. The grievance of the applicant is that while he was willing to cooperate in the inquiry, the respondents, after suspending him on the said date took more than 18 months even to serve him with a charge memo on 17.11.2017. While the allegations against the applicant was that he was suspected to have been involved in a fraud committed in

the Karaikudi Branch in the months of October 2014 and January, March and April 2015, the applicant had already been transferred out from Karaikudi division on 20.08.2014. The allegation against the applicant was that he allowed his user ID and password pertaining to Karaikudi division to be misused by the alleged fraudsters to establish which the departmental enquiry had been ordered.

3. Learned counsel for applicant would allege that the matter of fraud had been investigated by the CBI which came to the conclusion that the applicant was in no way responsible for the fraud and accordingly sent a report to the respondents. However, concealing the facts contained therein, the respondents with a view to merely harass the applicant for personal reasons had first suspended him and after 18 months, issued the charge memo pertaining to the alleged fraud. Even thereafter, while the respondents kept directing the applicant to cooperate in the inquiry, they themselves showed no urgency to conclude the matter. The inquiry itself never proceeded and only two hearings had taken place before the inquiry officer. The respondents appeared to be in no hurry to conduct the inquiry although standing instructions exist to the effect that the inquiry in such matters must be concluded within a period of six months. Accordingly, it is prayed that the respondents be directed to reinstate the applicant into service and

also enhance the subsistence allowance due to him for the period of suspension at 7th CPC rates.

4. Learned counsel for respondents would, however, submit that the respondents were not aware of whether the applicant was indicted by the CBI or not. As far as the records with the respondents reveal, the applicant had allegedly allowed his user ID and password to be misused by certain persons after he had been relieved from the Karaikudi division. The applicant did not seek deactivation of his user ID and password which would prima facie point to his ulterior motives. Accordingly, it was necessary to go ahead with the inquiry and in the meantime, the applicant's continued suspension was necessary as otherwise, he was likely to influence the witnessess.

5. We have considered the submissions in terms of the relevant facts and the pleadings in the case. It is not in dispute that the applicant was suspended on 12.05.2016 and the departmental inquiry is nowhere near conclusion as on date. The reasons for this inordinate delay have not been clearly spelt out. It is seen that the applicant had appealed against the order of suspension in 2016 itself which was disposed of by the appellate authority by an order dt. 03.10.2016 wherein it was observed that there was a clear prima facie case against the appellant for which he was placed under suspension and the inquiry process was still going on. The CBI was also conducting an

investigation in the case and reinstatement of appellant into service at that stage could impede the investigation. Accordingly, the appeal was rejected. His subsequent appeals against the continued suspension were all disposed of referring to this very order and directing the applicant to cooperate in the inquiry although no meaningful inquiry seems to have been conducted during this time. The present stage of the CBI investigation is also not submitted to this Tribunal, although the applicant would allege that the CBI has concluded investigation and filed chargesheet against the accused and the applicant is not one of them.

6. In the aforesaid facts and circumstances of the case, we are of the view that the continued suspension of the applicant from 2016 till date extended by the latest order upto 28.10.2018 is for no fault of the applicant as the delay could not be attributed to any omission or commission on his part except for the allegation that he was involved in the fraud. The settled law with regard to suspension is that suspension is not a punishment by itself, but was only to enable the authorities to conduct the inquiry in a fair manner and to deny an opportunity to the charged officer to influence the witnesses. The nature of the allegation against the applicant being that he allowed his user ID and password to be misused some two months after he handed over charge which is proposed to be established on the basis of

documentary evidence, it is not clear how the applicant could influence the witnesses if reinstated.

7. In any case, the reasons for delay in conducting the inquiry have not been explained to the satisfaction of the Tribunal. We are, therefore, inclined to grant the request of the applicant to the extent that the applicant should be reinstated into service forthwith. The latest suspension order dt. 17.07.2018 by which suspension has been extended upto 28.10.2018 is set aside to this extent. It is for the respondents to accommodate him in any post and at an appropriate place from where the applicant would not be able to influence the course of inquiry.

8. As far as subsistence allowance for the period of suspension is concerned, it would appear that the continued suspension of the applicant has been for delay not attributable to him. No allegation has been made against him of any omission or commission on his part with regard to the conduct of the inquiry. The competent authority is, therefore directed to review its decision not to grant enhanced subsistence allowance and pass a reasoned and speaking order for enhancement of subsistence allowance from an appropriate date in the facts and circumstances of the case.

9. Regarding the applicant's prayer for granting subsistence allowance based on pay fixation in 7th CPC, it is seen that applicant

had been suspended on 12.05.2016 whereas the 7th CPC recommendations were implemented w.e.f 01.01.2016 on which date, the applicant was neither under suspension nor facing any departmental enquiry. Therefore, we see no ground for the denial of the 7th CPC pay scales to the applicant since suspension order was only issued on 12.05.2016 and charge memo long thereafter on 17.11.2017. The respondents are accordingly directed to fix the pay of the applicant with effect from 01.01.2016 (7th CPC) and pass appropriate orders.

10. The directions contained in paras 8 and 9 of this order shall be complied with in six weeks' time from the date of receipt of a copy of this order. We clarify that we have not gone into merits of the allegations against the applicant as contained in the charge memo on which the departmental inquiry shall proceed in accordance with law.

11. OA is disposed of. Consequently, MAs 398, 399/2018 stand disposed of.

(P. Madhavan)
Member(J)

(R.Ramanujam)
Member(A)

26.07.2018

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