

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/772/2018**

Jabalpur, this Thursday, the 08<sup>th</sup> day of August, 2019

**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Vishnu Kumar Mishra  
Age 50 years,  
Son of Shri Ramdeo Mishra  
Resident of Semra Rajnagar Colliery  
District Anuppur (M.P.) 484446

**-Applicant**

(By Advocate –**Shri L.A.S. Baghel**)

**V e r s u s**

1. Union of India,  
through the Secretary,  
Department of Posts,  
Ministry of Communication &  
Information Technology  
Dak Bhavan,  
New Delhi 110001

2. The Director Postal Services (HQ)  
Office of Chief Post Master General  
Madhya Pradesh Circle,  
Dak Bhavan,  
Hoshangabad Road,  
Bhopal 462001

3. The Superintendent of Post Offices,  
Shahdol Division  
Shahdol (M.P.) 484001

4. The Sub Divisional Inspector (Posts)  
Anuppur Sub Division,  
Anuppur (M.P.) 484001

**- Respondents**

(By Advocate –**Shri D.S. Baghel**)

## **O R D E R (Oral)**

The applicant is challenging the order dated 10.08.2017 and 08.06.2017 (Annexure A/11 and A/9 respectively) whereby the respondent-department has rejected the appeal and representation of the applicant regarding payment of his TRCA for the period from 05.03.2013 to 05.12.2013.

**2.** The applicant has prayed for the following reliefs:-

*“8(i) Summon the entire relevant records from the respondents for its kind perusal.*

*(ii) Set aside the impugned order dated 08.06.2017 (Annexure A/9) and order dated 10.08.2017 (Annexure A/11) and grant all consequential benefits to the applicant.*

*(iii) Any other orders/directions as the Hon'ble Tribunal deems fit may also be passed.*

*(iv) Award cost of the litigation to the applicant.”*

**3.** Precisely the case of the applicant is that the applicant was initially appointed on 20.06.1990 as an Extra Departmental Delivery Aged, in the Department of Posts. The post was re-designated as Gramin Dak Sevak

Mail Deliveres w.e.f. 24.04.2001. The applicant was issued charge sheet on 14.05.2007 and was sought explanation. The applicant denied all the charges. A departmental inquiry was conducted and termination order was passed on 04.03.2013 (Annexure A/1). The applicant filed appeal dated 30.03.2013 to the appellate authority who considered the appeal and ordered de-novo enquiry vide order dated 29.11.2013 (Annexure A/2). The applicant was thereafter reinstated in service vide order dated 05.12.2013 (Annexure A/3). The respondent No.4 made the de-novo enquiry and passed order dated 18.11.2015 (Annexure A/4) wherein the applicant was fully exonerated from the charges. In the meanwhile, the departmental enquiry was in force the salary (TRCA) for the period from 31.07.2000 to 07.10.2002 paid to the applicant was recovered. The applicant approached this Tribunal by filing Original Application No.954/2012 against the order of recovery and also to make payment of salary for termination period from 05.03.2013 to

5.12.2013. The said O.A. was disposed of vide order dated 15.02.2017 (Annexure A/5) with a permission to file a representation. The applicant submitted his representation dated 28.02.2017 (Annexure A/6) to respondent No.4. Respondent No.4 issued show cause notice dated 28.04.2017 (Annexure A/7) for regularization of termination period. The applicant submitted his reply to said notice on 11.05.2017 (Annexure A/8). The respondent No.4 issued order dated 08.06.2017 (Annexure A/9) wherein the termination period was ordered to be treated as duty with no payment of pay/allowances for the period 05.03.2013 to 05.12.2013. Against the said order, the applicant preferred appeal dated 05.07.2017 (Annexure A/10) which was rejected by the appellate authority on 04/10.08.2017 (Annexure A/11). Hence, this Original Application.

4. The respondents have filed their reply. It has been submitted by the replying respondents that the appeal/representation submitted by the applicant was

rejected in regard to payment of TRCA for the period from 05.03.2013 to 05.12.2013. It has been specifically submitted by the replying respondents that the charges were against the applicant and for such period the applicant was made the payment of salary TRCA so the recovery was made from the applicant. It is admitted by the replying respondents that the applicant was exonerated from the charges leveled against him but as applicant was put off from duty he is not entitled for TRCA for the period i.e. from 05.03.2013 to 05.12.2013 which the applicant was put off from duty as the applicant remained absent.

**5.** Heard the learned counsel for both the parties and have also gone through the documents attached with the pleadings.

**6.** From the pleadings, itself it is clear that the charge sheet was issued against the applicant and the applicant has filed the Original Application No.954/2012 and during

the pendency of this O.A. the applicant was exonerated from the charges. So the applicant made a detailed representation vide Annexure A/6 but the respondent-department has denied the TRCA on the context that the applicant was under enquiry and was put off from the duty. Learned counsel for the applicant has attracted my attention to the Rule 12(3) 3<sup>rd</sup> proviso of Gramin Dak Sevak (Conduct and Engagement) Rules, 2001, under the heading Put Off Duty the relevant portion is as under:-

*“Provided further that in the event of a Sevak being exonerated, he shall be paid full admissible allowance for the period of put-off duty. In other cases, such allowances for the put-off duty can only be denied to a Sevak after affording him an opportunity and by giving cogent reasons.”*

7. So, it is clear in this Rule 12(3) 3<sup>rd</sup> proviso in the event of a Sevak being exonerated, he shall be paid full admissible allowance for the period of put-off duty. In the instant case the applicant was put off from duty during the enquiry period. It is admitted fact that the applicant was exonerated and the case of the applicant is fully covered under this Proviso.

**8.** Accordingly this Original Application is allowed. Impugned order dated 08.06.2017 (Annexure A/9) and order dated 10.08.2017 (Annexure A/11) are quashed and set aside. Respondents are directed to grant TRCA for the period from 05.03.2013 to 05.12.2013 to the applicant, within a period of 60 days after receiving a copy of the order of this Tribunal. No costs.

**(Ramesh Singh Thakur)  
Judicial Member**

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