

Central Administrative Tribunal
Principal Bench

O.A. No.1330/2003

New Delhi this the 21st day of November, 2003

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)
Hon'ble Shri Bharat Bhushan, Member (J)

Mr. Mohd. Ibrahim S/o Shri Haii Abdul Hamid.
H.No.RZ-344/Gali No.19,
Tughlakabad Extension, Kalkaji,
New Delhi-110019.

-Applicant

(By Advocate: Shri S.C. Luthra)

Versus

1. The Union of India through
the Secretary of the Ministry of
Communications, Department of Posts/
Dak Bhawan, Sansad Marg, New Delhi-110001.
2. The Chief Post Master General, Department of
Posts (India), U.P. Circle, Lucknow-226001(U.P.)
3. The Director Postal Services (H.Qrs),
O/o the Chief P.M.G., U.P. Circle,
Department of Posts (India),
Lucknow-226001 (U.P.)
4. The Senior Superintendent,
Railway Mail Service, Department of Posts (India),
R.M.S. "O" Division, Lucknow-226004(U.P.)

-Respondents

(By Advocate: Shri M.M. Sudan)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)

Applicant has challenged the following:-

- 1) Annexure A-1) dated 10.4.89 whereby
applicant was suspended;
- 2) Annexure A-7 dated 14.1.97/24.1.97
whereby his period of absence from 10.4.89
to 13.12.89 was treated as not on duty and
allowances for the said period were



restricted to subsistence allowance already paid to him;

3) Annexure A-9 dated 27.1.98 according post facto approval for deemed suspension; and

4) Annexure A-10 dated 24.5.2002 whereby period of suspension from 14.3.89 to 13.12.89 as period not on duty was confirmed.

2. Applicant has sought quashing of all these orders and direction to respondents to treat the suspension period as period spent on duty with all consequential benefits.

3. At the outset, learned counsel of the respondents raised the preliminary objection stating that applicant was detained in custody with the police P.S. Division No.4 Jalandhar w.e.f. 14.3.89 in crime No.60 dated 7.5.88 for misappropriation of public money under Section 409/420/468/470/120B IPC (Annexure C-1). He further pointed out that during the criminal trial, the court of Judicial Magistrate Ist class Jalandhar declared the applicant as Proclaimed Offender on 5.5.99 (Annexure C-2). Learned counsel stated that applicant has concealed the material fact of being a Proclaimed Offender from the court and as such he has not come before the court with clean

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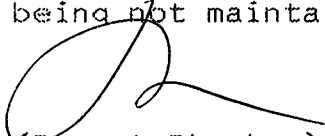
hands. In this view of the matter, the present OA is not maintainable.

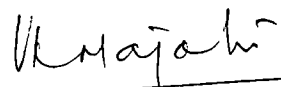
4. In the OA, applicant has given his address as H.No. RZ-344 Gali No.19, Tughlakabad Extension, Kalkaji, New Delhi-19. In paragraph-2 again applicant has stated that he has been residing at New Delhi since 20.9.1995. In the rejoinder, applicant has stated as follows in respect of preliminary objection:-

"It is a matter of record that the applicant was in police custody from 14.3.89 to 29.3.89. On the latter date, he was released on bail".

Applicant has not disclosed the factum of his being a Proclaimed Offender even in the rejoinder. Learned counsel of the applicant contended that applicant is not obliged to disclose that he is a Proclaimed Offender. From the facts stated in the OA, rejoinder and the contentions raised by the learned counsel of the applicant, it is clear that applicant has concealed the fact of being a proclaimed offender from the court and has not come up before the Tribunal with clean hands.

5. In this view of the matter, this OA does not deserve any consideration and is dismissed as being not maintainable.


(Bharat Bhushan)
Member (J)


(V.K. Majotra)
Vice-Chairman (A)

cc.