

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00180/2019

DATED THIS THE 15TH DAY OF OCTOBER 2019

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

HON'BLE SHRI CV. SANKAR, MEMBER (A)

Maheboob Ali  
S/o Shaik Hussain,  
Aged 61 years, Retired as  
GDS MD, Mudhol SO,  
a/w Yadagiri HO,  
Kalburgi Division, 585318.  
Residing at Chandapur,  
Post Mudhol,,  
Taluk Sedam  
Kalaburgi District 585318.

...Applicant

(By Shri AR.Holla..... Advocate)

Vs.

1. Union of India,  
By Secretary,  
Department of Posts,  
Dak Bhavan,  
New Delhi – 110 001.

2.The Senior Superintendent  
of Post Offices,  
Kalburgi Division,  
Kalburgi -585101.

3.The Inspector of Posts,  
Sedam Sub-Division,  
Sedam 585 222.

...Respondents.

(By Shri K. Gajendra Vasu, Sr. Panel Counsel)

O R D E R (ORAL)

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

1. Heard. The applicant who had been on put off duty for more than an year challenges the punishment and the way in which it was imposed. The main defence put up by the respondents is that if in a similar case an order was passed by this Tribunal and if it has been upheld by the Hon'ble High Court of Karnataka, the same has not been produced and therefore, they were unable to say anything against it. But then, the learned counsel for the applicant would submit that it is open for them to get the same from the Hon'ble High Court, if they so wish. There is no reason or responsibilities on his side to provide copies of the orders of superior courts on the respondents.

2. The respondents in paragraph 5 (i) of the reply submits that in accordance with the prevailing rulings in the department “ **Rule 12 (3) below Note-2 it is mentioned that “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”**

3. The respondents would say that applicant was not fully exonerated from the charges and awarded a punishment of "Censure which is a valid punishment in accordance with rule 9 of GDS (C& E)

Rules 2011. The matter is seemed to be covered by our order in OA.607/2015 dated 2.11.2016 which we quote:-

*“Heard. The matter relates to the issue of how to treat the suspension period when in a major penalty charge sheet, only a minor penalty could be imposed. In fact we had heard a connected case earlier and had issued an order in OA No. 520/2013 dated 11.04.2014, which was not taken up in review to the Hon'ble High Court of Karnataka and has become final. In paragraph 14 we have said as above:*

*“14. In this connection, it may appropriate to refer to the provisions under the CCS (CCA) Rules relating to the period of suspension in DOPT OM No. 11012/15/85-Estt. (A), dated 03.12.1985, in which it is stated that where departmental proceedings against a suspended employee for imposition of major penalty finally end with the imposition of a minor penalty, the suspension can be said to be wholly unjustified in terms of FR 54-B and the employees concerned should be paid full pay and allowances by passing suitable order. This only indicates that when a minor penalty is imposed a very lenient view should be taken regarding the period of suspension or in this case the put-off duty.”*

2. *This position seems to be acknowledged by a decision of the Principal Bench also in OA No. 890/2012 dated 12.02.2015.*

3. *There were 7 charges against the applicant, out of which the Enquiry Officer held that all charges were not proved, but the Disciplinary Authority differed with the Enquiry Officer and held that the 7<sup>th</sup> charge relating to non-acceptance of a memo when it was offered to him, must be deemed to have*

*been proved and on that he imposed a penalty of censure. This is one of the most minor of punishment. At this stage, we are not going into the correctness or not whether that punishment could have been imposed on the stream of evidence available and the DoPT OM No. 11012/15/85-Estt.(A) dated 03.12.1985 clearly stipulate that when major penalties is to be imposed and only a minor penalty could be imposed, the suspension period is wholly unjustified and therefore without any doubt the suspension imposed in this case also is unjustified and therefore the put off duty period will be treated as duty and applicant will be entitled to all the benefits thereof. This shall be made available to him within two months hence.*

4. OA is allowed. No order as to costs.”

which is a similar situation. Therefore, OA is allowed . Applicant is held to be eligible for all benefits as prayed for. Benefits to be made available to him within next 2 months. No order as to costs.

(CV. SANKAR )  
MEMBER(A)

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

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Annexures referred to by the applicant in OA.No.180/2019

Annexure A-1: Copy of order dated 26.7.2018.

Annexure A-2: Copy of memo dated 26.7.2018

Annexure- A-3.A copy of order dated 6.10.2018

Annexure- A-4.A copy of order dated 6.10.2018

Annexure- A-5.A copy of order dated 6.10.2018

Annexure- A-6.A copy of calculation sheet dated nil

Annexure- A-7.A copy of applicant's representation dated 4.12.2018

Annexure- A-8.A copy of order dated 4.1.2019

Annexures referred in reply

Annexure R-1: Copy of Rule 9 of GDS (C& E) Rules

Annexure R-2: Copy of Rule 9 of GDS (C& E) Rules

Annexure R-3: Copy of Rule 12 of GDS (C& E) Rules

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