

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/739/2015

HYDERABAD, this the 21st day of September, 2021



Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B V Sudhakar, Admn. Member

D. Sreenivasa Rao,
S/o Late D. Simhachalam,
Age:37yrs, Occ: Postman,
Head Post office,
Kakinada HO, Kakinada.

.... Applicant

(By Advocate : K. Siva Reddy)

Vs.

1. The Union of India rep. by
The Secretary,
Ministry of IT & Communications,
New Delhi-110001.
2. The Chief Postmaster General,
Andhra Pradesh Circle, Dak Sadan,
Abids, Hyderabad-500001.
3. The Postmaster General,
Visakhapatnam Region,
Visakhapatnam-530017.
4. The Superintendent of Post Offices,
Kakinada Division, Kakinada-533001.
5. Postmaster, Kakinada-1.

... Respondents

(By Advocate: Sri T. Sanjay Reddy for T. Hanumantha Reddy,
Sr. PC for CG)

ORAL ORDER
(As per Hon'ble Mr. Ashish Kalia, Judl. Member)

Through Video Conferencing:



Heard Sri K. Siva Reddy, counsel for the applicant and Sri T. Sanjay Reddy representing Sri T. Hanumantha Reddy, learned Senior Panel Counsel for the Respondents.

2. The OA is filed seeking the following relief:

“to direct the respondents to consider the representation dt.09.01.2014 submitted against the order of R5 No.PF/DSR/Dlgs/2013-14 dt.24.12.2013 treating the period from 15.10.2004 to 25.09.2009 as dies non and by declaring it as arbitrary, illegal and violative of Articles 14,16 and 21 of the Constitution of India and consequently direct the respondents to treat the period as duty for all purposes with all consequential benefits and may pass any other order or orders as deemed fit and proper in the circumstances of the case.”

3. The applicant belongs to Scheduled Caste category. He was appointed on compassionate grounds on 09.09.2002 as Postman. Thereafter, on 12.10.2004, his name was deleted from the list by Special Circle Relaxation Committee (SCRC) and being aggrieved of this, he has challenged the same by filing OA No.36/2006. This Tribunal has stayed the impugned order dated 11.01.2005. Ultimately, the OA stands allowed. But the applicant was not allowed to join the duty. He has filed Contempt Petition on 25.09.2009 and was permitted to join on that day. The Period from 15.10.2004 to

25.09.2009 was treated as unauthorised absence till the date of his joining and that period was treated as Dies Non.

4. The present Original Application is filed by the applicant for regularizing that period. He has relied upon the judgement of the Hon'ble Supreme Court in the case of ***Union of India Vs. K V Janakiram (1991 AIR 2010)***.



5. Notices were issued. Mr. T Hanumantha Reddy, learned counsel, filed a detailed reply. In para 4 of the reply, it is clarified that appointment was made excess of quota(i.e. total 69 candidates were selected being 5% of total vacancies instead of 21 candidates i.e. 5% of sanctioned vacancies). 48 cases were rejected by the respondents. It is further stated that the applicant was not on duty as he has applied for leave on 15.10.2004 and left the office without prior intimation or sanction from the respondents' authorities. As per the respondents' contentions, he was on duty from 09.09.2002 to 15.10.2004 which was treated as unauthorised as per the order date 15.10.2004. Ultimately, the applicant was reported to duty on 25.09.2009 and prayed that the OA may be dismissed.

6. After hearing counsel for the parties at length, this Tribunal, after considering the contention of the applicant, initially granted interim orders staying the termination. Thereafter, the OA was allowed and the applicant was allowed to join the duties only after filing of the Contempt Petition. It is a fact that the moment the applicant was allowed to join duty, he has joined duty immediately.

7. The conduct of the respondents is not understandable. When the person is willing to work, and if he is allowed to join the duty in normal circumstances why will he file the contempt petition and take legal request ?



8. Learned counsel for the applicant has also relied upon the judgment of **KV Jankiram** case (supra) wherein it was held that when a person is willing to join duty, and was not allowed to work, no pay for no work principle would not be allowed.

9. Learned counsel for the applicant further submits that his case is better than the case of those who are facing Departmental Proceedings. We are in agreement with the counsel of the applicant. We hereby set aside the order dt.24.12.2013 treating the period from 15.10.2004 to 25.09.2009 as dies non. The respondents are directed to treat the above period as duty for all purposes with all consequential benefits.

10. With the above observation, the OA is allowed directing the respondents to implement the order within a period of three months. No order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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