IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7923 of 2021

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Ambika Ram, aged about 74 years, son of late Mewa Ram, resident of village- Pirojpur, P.S.- Bhledi, District- Saran.

... ... Petitioner

Versus

1. The Union of India through the Secretary cum D.G Department of Posts, New Delhi
2. Chief Post Master of General Bihar Circle, Patna.
3. The Post Master General Northern Region, Muzaffarpur.
4. Senior Superintendent of Post Office, Saran, Chapra.
5. Directors of Account, (Postal), Patna-800001

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Sudhir Kumar Tiwary, Advocate
For the Respondent/s	:	Mr. Rajesh Kumar Verma, A.S.G.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE VIKASH JAIN)

Date : 06-09-2021

Heard learned counsel for the petitioner and learned counsel for the respondents through video conference.

2. Learned counsel for the petitioner has filed an undertaking that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of normal

physical functioning of the Court, and in any event within one month thereof.

3. The following reliefs as formulated by the petitioner have been claimed in the writ petition-

> *"(i) Issuance of an order, direction or writ in the nature of Certiorari quashing order dated 27.05.2019 passed in O.A. No. 939 of 2015 by the C.A.T. Patna Bench, Patna whereby the learned Tribunal has dismissed the O.A.*
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> *(ii) Issuance of an order, direction or writ in the nature of Mandamus commanding the respondents to grant the family pension to the petitioner with all consequential benefits after quashing the orders impugned.*
>
> *(iii) Any other relief or reliefs to which the petitioner may be found entitled to in the facts and circumstances of the case."*

4. The short facts according to the petitioner are that while he was discharging his duties as Sub Post Master in Derni Post Office, an occurrence took place and a sum of Rs. 2,47,323/- was stolen away by an unknown person during the night of 27/28.06.2001 for which Derni P.S. Case No. 115 of 2001 was instituted under Sections 461 and 379 of the Indian Penal Code. After investigation, the police submitted charge-sheet against the petitioner under Sections 409 and 120 B of the Indian Penal Code. The petitioner was put under suspension pending

departmental inquiry. In the departmental proceeding, a report dated 21.06.2004 (Annexure-2) was submitted by the enquiry officer to the effect that prosecution had not been able to prove the allegations in the charge sheet. It is stated in para 8 of the writ petition that the "petitioner has been acquitted in the departmental proceeding." It is stated further in para 12 of the writ petition that the petitioner "was given voluntary retirement on 18.10.2005." In due course, the criminal trial ended in his acquittal in terms of judgment dated 28.05.2012 (Annexure-1) as the prosecution was not able to prove the charges levelled against the petitioner. In view of such acquittal and the petitioner not having received full pension, etc., a representation was filed before the respondent no. 5 and thereafter, O.A. No. 983 of 2012 before the CAT for redressal of his grievance. The said O.A. was disposed of on 06.12.2012 (Annexure-3) with a direction to the respondents to decide the matter by passing a reasoned and speaking order, which, in turn, was passed on 30.07.2014 by the respondent no.4 (Annexure-4) observing, inter alia, that in view of the petitioner having been compulsority retired on 18.10.2005, he had been awarded sufficient punishment and there remained nothing against him for stopping payment of his admissible dues.

5. Learned counsel for the petitioner submits that learned CAT has erred in dismissing the O.A. which was filed for declaring the period of deemed suspension of the applicant from 10.07.2001 to 18.10.2005 as the period on duty for all purposes including for consequential monetary benefits. It is submitted that pursuant to acquittal in the criminal case, a direction was given in O.A. No. 983 of 2012 preferred by him to pass a reasoned and speaking order by the respondents. However, pursuant to the order dated 30.07.2014, the respondents did not regularize the suspension period for all purposes.

6. Learned counsel for the respondents appears and opposes the writ petition, submitting that the petitioner was awarded punishment by way of compulsory retirement by order dated 18.10.2005. Pursuant to the direction of the CAT in OA No. 983 of 2012, a reasoned and speaking order was duly passed on 30.07.2014, pursuant to which the admissible dues have been paid and have not been challenged by the petitioner. The contention of the petitioner with regard to 'deemed suspension' is misconceived inasmuch as he had been placed under suspension by a separate order and as such, it was not a case of deemed suspension at all.

7. Having heard the parties and on a consideration of the materials on record, we find the writ petition to be

completely devoid of merit. The petitioner has avoided bringing several material and relevant facts on record, such as the fact of his having been suspended by a separate order, and that he was awarded punishment by way of compulsory retirement in the departmental proceedings. On the contrary, he has taken the stand that he was exonerated in the departmental proceedings. A perusal of the impugned order of the CAT reveals these material details which are now not denied by the petitioner. Further, pursuant to the reasoned and speaking order (Annexure-4), orders were passed on 30.07.2014 by which various payments were sanctioned, such as provisional DCRG and provisional pension @ Rs. 4333/- per month and all dues have been paid to the applicant. The basic pension of applicant has been revised and fixed to the tune of Rs. 6529/- in the light of 6th CPC vide order dated 25.02.2015 and so also commutation of pension amounting to Rs. 1,50,148/- has been paid on 16.03.2015. The CGEGIS and GPF have also been paid. Importantly, the CAT has found that the applicant was not exonerated in the disciplinary proceedings rather the memo of disagreement was served to the applicant and upon charges being proved, the petitioner was found guilty of the charges. A separate order was passed for suspension of the petitioner and therefore, it cannot be said that he was put under deemed suspension. The submission of the petitioner, therefore, has no leg to stand on. We find no infirmity in the impugned order dated 27.05.2019 passed in O.A. No. 939 of 2015 by Central Administrative Tribunal, Patna Bench, Patna.

8. The writ petition accordingly stands dismissed.

9. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 2 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

(Anjani Kumar Sharan, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	10.09.2021
Transmission Date	N.A.