

UNION OF INDIA AND ORS.

A

v.

P.K. KUTTAPPAN

FEBRUARY 28, 2007

[DR. AR. LAKSHMANAN AND ALTAMAS KABIR, JJ.]

B

Service Law:

Back wages—Postal Department—EDDA—Dismissed on charges of non-delivery of letters to addressees—Reinstatement by Tribunal with 50% back wages—Held, the charges being very serious in nature impugned orders modified to the effect that order of reinstatement only shall be given effect to and the part of the order regarding payment of 50% back wages is set aside.

C

Respondent, an EDDA in the Postal Department, was dismissed from service on several charges of not delivering Registered Letters and other letters and information to the addressees. However, the Tribunal directed his reinstatement with 50% back wages. Since Department's writ petition was dismissed by the High Court, it filed the present appeal.

D

Disposing of the appeal, the Court

E

HELD: The charges are very serious in nature. Therefore the order passed by the Tribunal and as affirmed by the High Court is modified and it is ordered that only order of reinstatement will be given effect to and the direction in regard to payment of 50% back wages is set aside. Keeping in view the fact that no interim order was granted in favour of the appellant-Union of India, and it ought to have given effect to the order dated 25.1.2005 passed by the High Court, the respondent shall be entitled for reinstatement from 25.01.2005 with salary and other perks from that date. [Paras 6 and 8]

F

[435-D-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1122 of 2007.

G

From the Final Judgment and Order dated 25.1.2005 of the High Court of Kerala at Ernakulam in O.P. No. 19374 of 2002 (S).

T.S. Doabia, Kiran Bhardwaj and V.K. Verma for the Appellants.

A G. Prakash for the Respondent.

The Judgment of the Court was delivered by

DR. AR. LAKSHMANAN, J. 1. Delay condoned.

B 2. Leave granted.

3. Heard Mr.T.S.Doabia, learned senior counsel appearing on behalf of the appellants and Mr.G.Prakash, learned counsel appearing on behalf of the respondent.

C 4. The above appeal is directed against the judgment and order dt.25.01.2005 passed by the High Court of Kerala in O.P.No.19374 of 2002 affirming the order passed by the Tribunal ordering reinstatement with 50% of the back allowances.

D 5. Our attention was drawn to the charges framed against the respondent herein. The charges reads thus :-”

Article 1

E That Sri P.K.Kuttappan while working as EDDA Parakkadavu failed either to deliver or return to the Branch Postmaster 38 ordinary postal Articles entrusted to him for delivery on 16.3.1996, 18.3.1996 and 19.3.1996 and thereby failed to maintain absolute devotion to duty violating the provisions of Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964.

Article 2

F That Sri P.K.Kuttappan while working as EDDA Parakkadavu did not deliver RL 1075 of Bijapur addressed to Sri.I.M.Thomas, Irimpan house, Poovathussery, Parakkadavu entrusted to him for delivery on 4.3.96 and subsequent days but returned the article undelivered finally with false remarks on 19.3.96 and there by failed to maintain absolute devotion to duty violating the provisions of Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964.

Article 3

H That Sri P.K.Kuttappan while working as EDDA Parakkadavu did not deliver RL 979 of Poovathussery addressed Omana Thomas C/o

I.M.Thomas, Irimpan, Poovathussery, Parakkadavu entrusted to him on 9.3.96 and subsequent days but returned it undelivered with final false remark on 19.3.96 and there by failed to maintain absolute devotion to duty violating the provisions of Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964. A

Article 4 B

That Sri P.K.Kuttappan while working as EDDA Parakkadavu did not deliver or serve intimation on VP B-45241 of Bombay GPO addressed to Mrs. Omana Thomas, Poovathussery, Parakkadavu which was entrusted to him on 12.3.1996 and subsequent days but returned with false remarks "Home continuously locked" finally on 18.3.96 and thus failed to maintain absolute devotion to duty violating the provisions of Rule 17 of the P&T ED Agents (Conduct and Service) Rules, 1964." C

6. In our opinion, the charges are very serious in nature. However, the Tribunal and the High court taking a lenient view of the matter ordered reinstatement with 50% back wages. D

7. In our opinion, the respondent, if at all, should have been reinstated in service only without 50% back wages and, therefore, the said part of the order passed by the Tribunal and as affirmed by the High Court requires modification. We, therefore, modify the order passed by the Tribunal and as affirmed by the High Court and order only reinstatement and delete the direction in regard to payment of 50% back wages. The respondent shall be reinstated within one week from today. E

8. It is also pertinent to notice that the Special Leave Petition was filed on 23.06.2005. This Court on 29.07.2005 has ordered only notice on the application for condonation of delay, Special Leave Petition and also on the prayer for interim relief. Thereafter, the matter was adjourned to several dates and no interim order was granted in favour of the appellant-Union of India. Under such circumstances, the Union of India ought to have given effect to the order passed by the High Court dt.25.01.2005. Since there is no stay, the respondent, in our opinion, shall be entitled for reinstatement from 25.01.2005 and he is also entitled for salary and other perks from that date. F G

9. The appeal is disposed of accordingly.

10. No costs.