

(2013) 07 MP CK 0147

In the Madhya Pradesh High Court

Case No : Writ Petition No. 16268 of 2007

Ram Bihari Sharma

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 23-07-2013

Acts Referred:

Citation : (2013) 07 MP CK 0147

Hon'ble Judges : Vimal Jain, J;Rajendra Menon, J

Bench : Division Bench

Advocate : K.K. Gautam, for the Appellant; S.A. Dharmadhikari, Learned Counsel, for the Respondent

Final Decision : Dismissed

Judgement

1. Challenging the order dated 25-06-2004, passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur, in O.A. No. 449/2001, the petitioner has filed this writ petition. By the aforesaid order on imposition of penalty of Censure on the petitioner, who was Extra Departmental Mail Career/Delivery Agent in the department of Communication and Postal, when only 25% of the pay and allowances is granted to him in accordance to Rule 9(3) of the Posts and Telegraphs Extra-Departmental Agents (Conduct and Services) Rules, 1964, this writ petition has been filed, claiming full pay and allowances for the period when the employee namely the petitioner was kept on "put off" duty and when he was prevented for duty.

2. The petitioner was engaged as Extra Departmental Mail Carrier/Delivery Agent. He was proceeded against a departmental inquiry on certain allegation of commission and omission indicated in the charge sheet issued to him. Even though the Inquiry Officer had exonerated him but the Disciplinary Authority disagreeing with the finding of the Inquiry Officer ordered to keep the petitioner on "put off" duty. He filed an appeal and on appeal being filed, the Appellate Authority accepted the finding of the Disciplinary Authority but interfered with the quantum of punishment and directed for reinstatement, imposed the

punishment of "Censure" and to pay him 25% pay and allowances during the period when he was put off duty.

3. Now claiming full salary and allowance for the period the applicant was kept on "put off" duty, an application was filed before the Central Administrative Tribunal, Bench at Jabalpur and the same having been dismissed, this writ petition has been filed.

4. Even though learned counsel for the petitioner tried to emphasize that when the appellate authority has interfered with the quantum of punishment and directed for reinstatement only after imposing penalty of censure, then the employee is entitled to full salary for the period when he remained under put off duty. The learned Tribunal has already taken note of this aspect of the matter and held in the light of the certain judgment of the Full Bench of the Tribunal that an employee who is kept put off duty under Rule 9(3) is only entitled to such pay and allowances as are admissible under rule to the discretion being exercised by the Disciplinary Authority.

5. In the present case the petitioner was only a Extra Departmental Mail Career/Delivery Agent and on the ground that various allegations against him are proved, he was imposed with minor penalty of censure and the petitioner was regularized with 25% pay and allowances. The discretion exercised by the competent authority is with regard to the Rule, We see no reason to interfere into the matter. That apart the petitioner is an Extra Departmental Mail Career/Delivery Agent and during the period when he is kept under put off duty, he is entitled to work and claim benefit of salary from any other sources and taking note of these aspect we see no reason to interfere into the matter when a reasonable order has been passed by the Tribunal. Accordingly finding the discretion exercised by the competent authority to be in accordance with law, this petition is dismissed.