

CASE NO.:
Appeal (civil) 1122 of 2007

PETITIONER:
UNION OF INDIA & ORS

RESPONDENT:
P.K. KUTTAPPAN

DATE OF JUDGMENT: 28/02/2007

BENCH:
Dr.AR.LAKSHMANAN & ALTAMAS KABIR

JUDGMENT:
J U D G M E N T
(Arising out of SLP(C) No.16478 of 2005)

Dr.AR.LAKSHMANAN, J.

Delay condoned.

Leave granted.

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.

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.

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

" Article 1

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

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

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.

Article 4

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."

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.

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.

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.

The appeal is disposed of accordingly.

No costs.