

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

W.A. No. 1777 of 1998 decided on 12.5.1999

Name of Applicant : Shri C.V.Ranga Venkatesh

By Advocate : Shri M.L.Ohri

Versus

Name of respondent/s Union of India through the
Secretary, Deptt. of Posts, New Delhi & anr.

By Advocate : Shri Gajendra Giri

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes/~~No~~
2. Whether to be circulated to the other Benches of the Tribunal. - ~~Yes~~/No

Narasimha Sahu
(N. Sahu)
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1777 of 1998

New Delhi, this the 12th day of May, 1999

HON'BLE SHRI N.SAHU, MEMBER(A)

Shri C.V.Ranga Venkatesh
S/o Shri C.N.V.Rao,
Assistant, PAP Section,
Department of Posts,
Resident of 9188/4, Multani Dhanda,
Paharganj, New Delhi-110054.

....Applicant

(By Advocate: Shri M.L.Ohri)

Versus

1. Union of India through
the Secretary,
Department of Posts,
Ministry of Communication,
Dak Bhawan, Sansad Marg,
New Delhi-110001.

2. Director(Estt)
Department of Posts,
Ministry of Communication,
Dak Bhawan, Sansad Marg,
New Delhi-110001.

....Respondents

(By Advocate: Shri Gajendra Giri)

O R D E R(ORAL)

By Hon'ble Shri N.Sahu, Member(A)

Heard Shri M.L.Ohri, learned counsel for the applicant and Shri Gajendra Giri, learned counsel for the respondents. I have carefully considered the arguments of both the learned counsel.

2. The impugned note/remarks which called for a memo of warning for using objectionable and controversial language leading to his surrender to the Administration are as under -

"Sub: Initial Grant of HRA/CCA to the
Postal Staff working at Vahannagar
S.O. under Ahmednagar Divn. in
Pune Region(Maharashtra Circle)

S.No.1(R)/p.1-4/c

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PUC refers.

2. PMG,Pune has forwarded a proposal for the initial grant of HRA/CCA to the Postal Staff working at Vahannagar S.O. under Ahmednagar Divn. in Pune Region, (Maharashtra Circle).

3. PMG has submitted the Certificate (civic status) which forms the sine qua non of the proposal and is in order: that is the Certificate has been duly certified by the Ahmednagar Collectorate as per the requirements of para 3(b) (iii) of MOF OM dated 27-11-1965, as amended and modified from time to time.

4. The proposal stands supported attracting the provisions of MOF OM dated 27.11.1965 and needs to be referred to the Ministry of Finance Department of Expdr. for the issuance of special/general orders so as to ensure uniformity in the matter of application of the proviso to the rule. Hence, it is suggested that keeping in line with the spirit of the rules, we may route this proposal to the Ministry of Finance, Deptt. of Expenditurg, N.Delhi on the grounds that absolute powers are vested in that Ministry. Before forwarding this case to MOF, we may route it through Finance Advice-Postal who may offer their comments, if any, recommending the proposal to MOF.

5. It is further submitted that as per practice MOF agrees to the proposal w.e.f. the first day of the month in which the Certificate has been issued to the proposal (i.e. 1.9.1997 in the instant case). Notwithstanding the submission of PMG to initiate the grant from 30.12.90 even inspite of the clearly mentioned validity period, it is futile to recommend the same to MOF as the logic of PMG is not understandable (perhaps a conservative view). PMG justifies the delayed submission of the proposal as the earlier Postal Staff were provided residential accommodation within the Defence area campus as a welfare measure not amounting to any regulated mechanism such as Post-attached quarters or allotment made from General Pool.

6. It would be interesting and justified if MOF makes a one-time exception to the practice and agrees/approves to the commencement of the proposal from 30.12.90 to 30.11.1999 on the strength of the three Certificates.

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7. FA-P may forward the proposal to MOF alongwith their comments.

Submitted please.

Sd/-

SO(PAP)
ADG(E)
Dir (E)
DDG(I&E)
Finance Advice-Postal"

3. The learned counsel for the respondents states that the remarks of the applicant were irrelevant and were his personal views and objects to certain notings. The applicant was also expressly denied copy of the noting so that he could utilise the same to prepare his defence.

4. The applicant submits in the rejoinder that his noting did not make any allegation against anybody and was recorded in the bonafide discharge of his duties. He was an obedient Government servant and never disobeyed the orders. His noting was endorsed by the Section Officer and ADG (E) - his two superiors in the hierarchy. Once they approved the noting, the applicant could not have been singled out for the warning. He also states that the DGM had no power to surrender the applicant. He remained without any duty and posting orders have not been issued to him.

5. The learned counsel for the applicant has cited the decision of the Hon'ble Supreme Court in the case of State of U.P. Vs. Shatrughan Lal & Anr. - JT 1998 (6) SC 55. He stated that even before the warning was administered, the applicant was not given a show cause notice and explanation was not called for. The Hon'ble Supreme Court speaking through Hon'ble Mr. Justice S. Sagir Ahmad stated that one of the

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principles of natural justice is an opportunity of hearing and failure to supply of documents and copies of statement recorded during preliminary enquiry amounted to not affording an effective opportunity.

6. The respondents state that no adverse remark was communicated and the applicant did not suffer any financial loss and did not lose his position or status. It was merely a warning.

7. We are living in a free country where every citizen has certain cherished fundamental rights. Right to free speech is one such. A Government servant, however low or high he may be, has every right to put forth his views. I have not found a single syllable in the noting which could hurt anybody's feelings. The note is not derogatory or used any objectionable language. What the applicant had written may be accepted or rejected, modified or ignored but merely because he made a noting in a firm language putting forth his views on the subject cannot be used against him. Even if a lower subordinate uses an ornate style, such embellishments in his diction should not go against him. There is nothing slanderous, objectionable or unparliamentary in the language used by him. The point made by him should be met or if the superior officer thinks so, could be ignored or overruled. But for mere expression of views one should not suffer. Even our colonial masters would have shuddered to warn a subordinate for expressing his independent views. The respondents should view the noting in its proper spirit and should not always expect cringing notes supporting a view point from a

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subordinate. The warning is adverse to the interests of the applicant as a Government servant and very clearly he was surrendered to the administration branch out of pique. It is a measure of punishment.

8. In the result, the OA is allowed. I direct that the warning shall stand expunged and shall have no effect on the personal career of the applicant. As far as surrender is concerned, I direct respondent no.2 to reconsider surrendering him on merits uninfluenced by the incident which formed the subject matter of this O.A. and finally the respondents shall note that this episode shall not in any way influence his appraisal in the annual confidential report.

9. The O.A. is allowed and in the facts and circumstances of this case, no costs.

/dinesh/

N. Sahu
(N. SAHU)
MEMBER(A)