

DATED THIS THE FOURTH DAY OF FEBRUARY, 1987

Member(J)

Member (AM)

APPLICATION No. 1651/86(T)

APPLICANT

Vs.

1. The Director General,
Daktar Bhavan,
New Delhi.
2. The Regional Director,
Postal Services, O/s the
Post Master General,
Karnataka Circle,
Bangalore - 1.

3. The Senior Superintendent of Post Offices, Mysore Division, Mysore.

RESPONDENTS.

(Shri M.S.Padmarajaiah ... Advocate)

This application has come up before the court today.

Hon'ble Shri L.H.A.Rege, Member(AM) made the following :

ORDER

This is a writ petition transferred by the High Court of Judicature, Karnataka, under Section 29 of the Administrative Tribunals Act, 1985 to this Bench, which is renumbered as an application, wherein the applicant challenges the impugned order dated 30.6.1982 (Annexure-D) issued by the second respondent and prays that the same be declared as void and that he be granted consequential relief.

2. The facts which have given rise to this application are briefly as follows: The applicant entered the Postal Department in 1947 and was serving as Sub-Post Master, Mysore, at the time he filed the writ petition. We are informed that he has since superannuated on 30.6.1986.

3. On 20.12.1979(Annexure-A), he was informed by the third respondent, that a disciplinary enquiry(DE) was proposed to be held against him, under Rule 14 of the Central Civil Services (Classification, Control and Appeal Rules, 1965 (Rules, for short), on the following two charges:

- i) Refusal to carry out the orders of the Head of office, namely, the Post Master(G), Mysore H.O. on 4.8.1979 as Sub-Post Master, thereby failing to maintain devotion to duty in contravention of Rule 3(1)(ii) of the Rules.
- ii) Threatening, committing assault on and ill-treating certain members of the staff between June and September 1979 while on duty, thereby behaving in a manner unbecoming of a Government Servant in contravention of Rule 3(1)(ii) ibid.

4. A statement of imputation of misconduct in support of each article of charge, was furnished to him along with a list of documents and of witnesses relied upon. The applicant was asked to submit a written statement of defence within a specified period. The Assistant Superintendent of Post Offices, Mysore West Sub Division was appointed as the Inquiring Officer (I.O).

5. The applicant denied the charges framed against him. He submitted his defence statement on 6.1.1980(Annexure-C) alleging, that the witnesses examined, bore malice against him; that the evidence was not properly appreciated and the entire enquiry was motivated by bias against him. He also represented, that he was denied the assistance of a defence counsel. The I.O held, that the first article of charge was proved but not the second one, for want of evidence. Nevertheless, the first respondent, who was the Disciplinary Authority(DA) ordered on 30.6.1982 (Annexure-D), his reduction to Rs.580/- per mensem in the pay-scale of Rs.475-640, for a period of two years with effect from 1.7.1982 upto 30.6.1984, without cumulative effect.

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The applicant preferred an appeal thereon on 6.8.1982, to the Post Master General Karnataka Circle, Bangalore, namely, the Appellate Authority(AA), who rejected the same and upheld the punishment imposed by the DA. The applicant filed a review petition thereon on 14.2.1983 to the Member(Administration), Post and Telegraphs Board, Ministry of Communications, Government of India, who by his order dated 5.12.1983(Annexure-E) rejected the same. Aggrieved, the applicant filed a writ petition in the High Court of Judicature, Karnataka, Bangalore, which has been transferred to this Bench and is now before us for consideration.

6. We have heard the rival contentions and have carefully examined the material placed before us. The grounds urged by the learned Counsel for the applicant are mainly, that the impugned order dated 30.6.1982(Annexure-D) is illegal and violative of the principles of natural justice; that the charges framed against the applicant are illusory, are based on no evidence and are ulteriorly motivated; that the essential principles of initiating disciplinary proceedings are violated; that the I.O was not competent to hold the DE, being a party to the charges levelled against the applicant; that the applicant was denied reasonable opportunity to defend himself; that the persons who conducted the enquiry, were inimical towards him; that the DA did not apply his mind to the material on record, analyse the evidence properly and pass a reasoned order; and that he did not examine the reasonableness of the quantum of punishment in relation to the guilt.

7. Rebutting each of these contentions, the learned Counsel for the respondents, submitted, that the applicant had

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named one Shri M.Venkataramana, PRI(A) Mysore, as his Defence Assistant(DA). As the third respondent could not spare him for administrative reasons, the applicant was asked to nominate someone else as his DA. The applicant then informed, that he would defend the case himself and that he required no assistance. Later, he was permitted to engage one Shri S.V.Krishnaswamy as his DA but after availing of his services for about a month and a half, he did not engage him thereafter, on grounds of ill-health and personal inconvenience of the DA. Though the applicant was again given an opportunity to engage another DA, he declined the same by his letter dated 15.2.1982 and preferred to defend the case himself. The third respondent, on administrative grounds, negated the belated request of the applicant reiterated on 8.3.1982, to avail of the services of the aforementioned Shri Venkataramana. It is thus apparent, that the applicant vacillated in his stand, for availing of the services of a DA. and cannot therefore make a grievance of the same.

8. The contention of the applicant that he was implicated by persons who were hostile to him and that he was not given reasonable opportunity to defend himself, is not borne out by any concrete evidence. It is seen that the disciplinary proceedings spanned over a period of nearly a year and nine months, but with as many as 28 hearings, during which, the applicant had ample opportunity to vindicate his innocence. The charges framed were specific with reference to the date, incident and the officials concerned, as could be seen from the articles of charge framed against the applicant and the statement of imputations furnished to him in support. The applicant was not denied the opportunity to cross-examine the witnesses. We have noticed

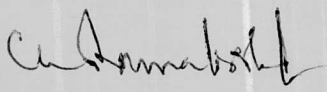
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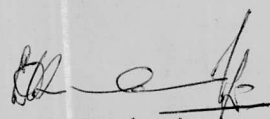
that the DA applied his mind to the whole matter, before arriving at his decision and did not accept the report of the I.O. mechanically, but considered the reply of the applicant to the charges objectively and stated reasons for arriving at the conclusions. The decision has been reached according to law, on merits and not on consideration of expediency or without evidence. The Reviewing Authority too, has similarly analysed the evidence on record objectively and exhaustively before upholding the punishment imposed by the DA and affirmed by the AA.

9. The allegation of the applicant, that the I.O was associated with the charges levelled against him, are not borne by facts, as the I.O was serving as Assistant Superintendent of Post Offices in Nanjangud Division and was connected with the case earlier, as asserted by the Counsel for the respondents, which assertion, we have no reason to disbelieve, in the absence of positive evidence to the contrary.

10. In the light of the above facts and scanning through the material placed before us, we are ^econvined_{LR N} that the disciplinary proceedings were conducted in accordance with law and the procedure prescribed, that the applicant was afforded reasonable opportunity to substantiate his defence, that there was no ulterior motive in proceeding against the applicant, that the charges were based on adequate evidence and that the applicant is guilty of the same. We are of the view, that the punishment imposed on the applicant is commensurate with his guilt.

11. We, therefore, dismiss the application. Parties shall bear their own costs.


MEMBER(J)


MEMBER(AM) 4-2-1987

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