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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.ANO. 39 of 1987

Date of Order: 06-11-89

T.Prakash

..Applicant

Versus

Director of Postal Services
and 2 others

..Respondents

For Applicant:

Party-in-person

For Respondents

J.Ashok Kumar,
Standing Counsel for the
Department.

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA , Vice Chairman

HON'BLE SHRI D.SURYA RAO, Member(Judicial)

(Judgment delivered by Shri D.Surya Rao, Member(Judicial))

1. The applicant herein is a Postal employee, working as Postal Assistant, in Medak Head Post Office, Medak. He has filed this application questioning the Memo No.:E3-3/T&C/Con/85-86, dated 19-11-1985 whereby punishment of stoppage of increments for a period of six months was imposed upon him by the 2nd respondent and as confirmed by the 1st respondent in his Order No. RDH/ST/21-3/4/86, dated 25-7-1986.

2. The applicant states that while he was working as Sub-Postmaster, Nizampet, he was transferred to Pamal-parthy by Respondent no.3. He states that he put in a claim for TA bill of Rs.383.50 paise. The bill was passed after making enquiries/verification. He states that

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thereafter the respondent no.3 issued memo of charges. As a consequence of the enquiry, the applicant states that he sought copies of enquiry report and statements. Without furnishing the same, the 2nd respondent issued the impugned order of penalty of stoppage of 3 increments. The applicant submitted an appeal to respondent no.1. Respondent no.1 vide his memo dated 18-4-1985 remitted the case back to the disciplinary authority with a direction to allow perusal of the statements recorded during the enquiry and pass fresh orders on receipt of defence. The applicant thereupon submitted his defence on 14-10-1985 after perusing the statements recorded during the enquiry. Respondent no.2 revised the penalty to one of stoppage of increment for 6 months. The applicant submitted an appeal to Respondent no.1 who rejected the same by an order dated 25-7-1986. It is against these orders that the applicant has preferred this application. The applicant contends that there ~~is~~ no documentary evidence in this case. The so called recorded evidence were recorded behind his back and are fabricated one. Principles of natural justice require that the applicant should be permitted to cross-examine the witnesses and defence their witnesses.

3. On behalf of the respondents, a counter has been filed denying the various contentions and claims made by the applicant. The charge sheet has been issued after a *prima facie* case has been made out. It is therefore, contended that the orders sought to be impugned are valid orders and there is no merit in this application.

4. We have heard the applicant in person and Shri J.Ashok Kumar, Standing Counsel for the Department who has also placed the relevant records before us.

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5. The applicant had contended in his reply dated 14-10-1985 to the disciplinary authority, after he had perused the documents made available to him, that the statements sought to have been recorded from the house owner is not the house owner at all. He also stated therein that the Department ought to have taken the address of the applicant and made a proper verification at the place where he was residing. Some un-connected house owner was examined and his statement was recorded. He, therefore, contended that the statements recorded could not be taken into consideration on coming to the conclusion that he had carried only 10 kgs sammans and not 20 kgs. He also asked for a regular enquiry to be conducted and permit him to cross-examine the material.

6. We have considered these facts and contentions. A perusal of the memo dated 19-11-1985 disclose that none of these contentions were dealt with. It is merely stated, 'that no enquiry is necessary as requested by the official. The official has perused the documents and sent his representation with number of arguments which are not sustainable. In view of the evidence on record it is clear that the official preferred a bogus claim and the same is recovered to the extent of transportation of personal effects'. The disciplinary authority could not have relied upon the record which is disputed by the applicant. The order does not disclose what is the evidence on which the disciplinary authority -respondent no.2, came to the conclusion that the applicant had carried only 10 Kgs. It is well settled that no penalty order could be

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passed on the basis of non-existence of material to sustain the charge. The enquiry officer's report does not state on what material he has come to the conclusion. In the result, the impugned orders No.E3-3/TA/Con/85-86 dated 19-11-1985 passed by the 2nd respondent and confirmed by the 1st respondent in his Order No.RDH/ST/21-3/4/86, dated 25-7-1986, are set-aside. The application is accordingly allowed and there will be no order as to costs.

(Dictated in open court)

B.N.Jayashimha

(B.N.JAYASIMHA)
Vice Chairman

D.Surya Rao

(D.SURYA RAO)
Member (Jud1.)

Dt. 6th November, 1989.

SQH*

TV 23/11/89
DEPUTY REGISTRAR(A)

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To

1. Director of Postal Services,
A.P.Northern Region, Hyderabad - 500001.
2. The Superintendent of Post Offices,
Medak Division, Medak - 502110.
3. Sri D.A.S.N.Murthy, Superintendent Sorting,
Vijayawada RMS., Vijayawada. Krishna District.
4. One copy to Mr. T.Prakash, Party in Person,
Postal Assistant, Medak Head Post Office,
Medak.
5. One copy to Mr. J.Ashok Kumar, SC for Postal Department,
CAT., Hyderabad.
6. One spare copy.

YLKR

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