

(52)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.145/1989.

Dt. of Decision: 19.7.99.

V.Ramamohan Rao

....Applicant

Vs.

1. The Union of India
rep. by the Secretary
Department of Posts &
Government of India,
New Delhi.
2. Post Master General
Department of Posts,
A.P.Circle, Hyderabad.
3. Manager,
Postal Motor Service,
Dept. of Posts,
Hyderabad - 500 195.

....Respondents

Counsel for the Applicant: M/s K.G.Kannabiran
B.Nalin Kumar

Counsel for the Respondents: Shri Naram Bhaskar Rao, Addl.CGSC

CORAM:

THE HON'BLE SHRI J.NARASIMHA MURTHY : MEMBER (J)

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

(Order of the Division Bench delivered by
Hon'ble Shri J.N.Murthy, Member (J)).

It is a petition filed by the petitioner to direct the Respondents to not to conduct any disciplinary proceedings against the applicant pursuant to the letter dt.12-1-1989 bearing No.MSE/118/Disc/I/77 issued by the 3rd Respondent and declare the same as illegal and void.

The facts of the case are briefly as follows :-

The applicant was appointed on 30-8-1972 as a time-scale

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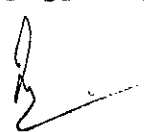
Driver in Postal Motor Service, in the office of Senior Superintendent of Post Offices, Vijayawada. At the material time the applicant was working in the sub-unit at Secunderabad. While that being so he was on duty on 28/29-10-1985. He was assigned duty in scheduled No.13 and he was given vehicle No.ADT 2023. At about mid-night while he was proceeding from T.M.O., Nampally to TMO, Secunderabad which is at Secunderabad Railway Station, at Ghasmandi Cross Roads, Rastrapathi Road, Secunderabad a motor cyclist driving his vehicle in a rash and negligent manner collided with the vehicle No.ADT 2023. It is submitted that the said accident occurred not due to any lapse on the part of the applicant but only on the account of rash and negligent driving by the motor cyclist. Further the relatives of the said motor-cyclist who came after him immediately took him to Gandhi General Hospital even though the applicant volunteered to take the motor cyclist to the Hospital. It is stated that the police station Mahankali instituted C.C.No.252 of 1986 on the file of Hon'ble XI Metropolitan Magistrate under section 337 IPC in respect of the said occurrence. In the said criminal case two witnesses have already been examined and it is posted for examination of in-charge Police Officer of the said Police Station. It is further stated that the said motor cyclist filed O.P.No.48/1987 on the file of Motor Accidents Claims Tribunal, Secunderabad against the department claiming

for a sum of Rs. 10,000/-

....3.

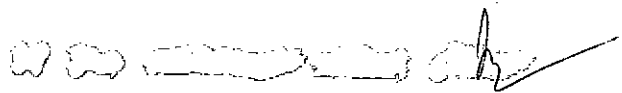
damages. In that case originally the Department defended the applicant and later they withdrawn their help and asked the applicant to ~~xxxx his defence~~ make his own arrangements to defend his case. At the same time the Respondents proceeding with the departmental enquiry. So he filed this petition to direct the Respondents to stop further proceedings by the department pending criminal proceedings.

3. The Respondents have filed a counter with the following contentions :- The applicant was on duty on 28/29-10-1985 in schedule No.13. He was given vehicle No.ADT 2023 for performing duty. He took charge of the vehicle and left Secunderabad garrage at 22 hours. He left T.M.O.Nampally at 00-30 hours for T.M.O.Secunderabad. At Ghasmandi X Road Rashtrapathi Road at Secunderabad Railway Station he did not observe traffic rules and proceeded right without taking round the traffic island. This resulted in a collision with Motor cycle No.ARX-6662 coming from Bolaram side. As a result of this accident the motor cyclist substained serious head and bodily injuries. It is further stated that the applicant was issued memo of charge^S No.MSR/PF/85-86/30 dt.19-12-85 under rule 14 of CCS(CCA)Rules 1965 by disciplinary authority. Although the charge^S is substantially the same as in criminal case pending against the applicant there is no bar to hold disciplinary proceedings simultaneously with a criminal trial.



This position was clarified by the DGP&T in his lr.No. 5/11/81-VT dt.11-1-1983 in consultation with the Ministry of Home Affairs, Department of Personnel and Administrative Reforms, the Ministry of Law and the Central Vigilance Commission. According to the applicant his mis-conduct was not proved by the evidence of Mr.P.W.Devid. Mailman. An enquiry officer was appointed to enquire into the charges framed against the applicant. Holding departmental enquiry while criminal case is going on is not illegal or incorrect and misconceived. So the contention of the applicant is not correct and there is no merit in the application and hence the same is liable to be dismissed.

4. We have heard Shri K.G.Kannabiran, learned counsel for the applicant and Shri Naram Bhaskar Rao, learned standing counsel for the Respondents. The only point involved in this matter is while the criminal proceedings are going on, can the department conduct disciplinary proceedings simultaneously. In this case admittedly the charges in the criminal case and in the departmental proceedings are one and the same and the Magistrate is enquiring the criminal case wherein the eye witnesses and other motor vehicle owner are going to be examined and its technical aspects also ^{involved} in the criminal enquiry. If the departmental enquiry also conducted along with the criminal case he has to disclose the defence in the departmental enquiry and which defence can be used in the criminal case also.



To

1. The Secretary, Union of India,
Department of Posts, Govt. of India, New Delhi.
2. The Post Master General, Department of Posts,
A.P.Circle, Hyderabad.
3. The Manager, Postal Motor Service, Dept.of Posts,
Hyderabad-195.
4. One copy to Mr.K.G.Kannabiran, Advocate, 10-3-29/2, East Marred-
pally, Secunderabad-026.
5. One copy to Mr.N.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
6. One copy copy Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
7. One spare copy.

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If the criminal court gives a verdict on either way, there is no obstruction for the department to proceed with the disciplinary enquiry if they are not satisfied with the criminal case findings because the charges are same in both the criminal case and departmental proceedings. If the applicant is acquitted in the criminal case it can be used in the department also to prove his ignorance, if both are simultaneously held, there is however possible that the stand taken in the disciplinary proceedings can be known to the parties in the criminal case and it is not safe to disclose his defence in the departmental enquiry. So until the Criminal Case is over it is better to suspend the disciplinary proceedings. In this connection the learned counsel for the applicant cited Judgment of this Tribunal rendered in O.A.985/89 dt.10-6-1991, wherein it was held that the departmental enquiry shall be stayed till the out come of the criminal case. So in the interest of justice we hold that the departmental proceedings are to be stopped pending disposal of the criminal proceedings. Accordingly we direct the respondents to stop the departmental proceedings. In these circumstances the O.A. is allowed. No costs.



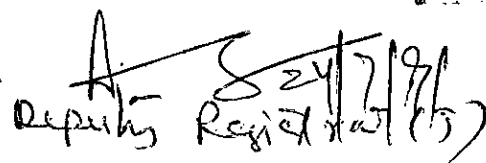
(J.NARASIMHA MURTHY)
Member (B)



(R.BALASUBRAMANIAN)
Member (A)

avl/

Dated: 19.7.91


Deputy Registrar (15)

(6) RVS
29/6/91

TYPED BY
CHECKED BY
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

COMPARED BY
APPROVED BY

THE HON'BLE MR V.C.
AND
THE HON'BLE MR. M(J)
AND
THE HON'BLE MR. J. NARASIMHA MURTY: M(J)
AND
THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 19-7-1991 ✓

ORDER ✓ JUDGMENT ✓

M.A./R.A./C.A. No.

D.A. No. 145/89 ✓

T.A. No. (W.P. No.)

Admitted and Interim directions issued.

Allowed.

Disposed of with direction.

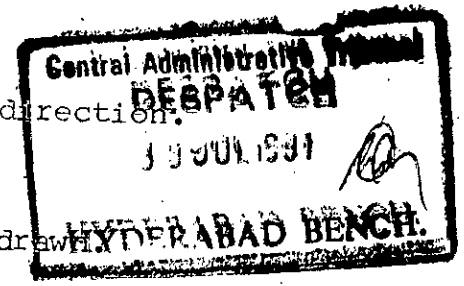
Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.



19/7/91