

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD

u.A

O.A./TCA. NO. 467 OF 1989

A. Kesava Rao

Applicant(s)

Mr. Ashok Kumar Agarwal

Counsel for Applicant(s)

Versus

The Director, Ministry of Posts & Telegraphs Respondent(s)
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Mr. E. Madan Mohan Rao

Counsel for Respondent(s)

Date

Orders

15-6-89.

M.A.No. 348/89 is Allowed. order
on separate sheet.

O.A. 467/89 is admitted. No interim
directions.

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(OSR)
HMC

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29.3.90.

MA NO. 147/90 is O.A. 467/89.

Heard the applicant's Counsel.
Add to the ready list of expedite cases of April 1990
for final hearing.

M.A. directed as follows

BMO
TTC

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

OA SR No. 1045/88

O.A. No. 467 1989

Mr. Ashok Kumar Agarwal Applicant(s)

Versus

Respondent(s).

Sr. No.	Date	Orders
	20/4/89	<p>Heard the Counsel for the applicant. In the circumstances stated by the Counsel in his Verified Petition dt. 20.3.89 the application may be registered and scrutinised with regard to completion of formalities, rectification of the defects etc. However, the application will be treated as having been submitted as of today for the purpose of limitation.</p> <p><i>SAR</i> <i>BNT</i> <i>GR</i></p>
	5.6.89 20/4/89	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 467/89

Date of Order: 15.7.1993

BETWEEN :

A.Keshava Rao (Died)

... Applicants

1. Smt A.Sakuntala
2. A.Yogeswara Rao
3. A.Kantha Rao
4. A.Mohan Rao
5. A.Saraswathi
6. K.Rajeswari

L.Rs

A N D

1. Government of India, Ministry of Posts and Telegraphs, byt ~~was~~ Director, Postal Services, APNE Region, Visakhapatnam.
2. Senior Superintendent of Post Offices, Srikakulam Division, Srikakulam.
3. Sri SDI(P) Mr.Nakulo Pradhan, Somepeta, Srikakulam Dt.

... Respondents.

Counsel for the Applicants

... Mr.Pratap Narain Sanghi

Counsel for the Respondents

... Mr.N.V.Ramana

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

The applicant who was Extra Departmental Branch Post Master of Kesa~~ra~~ipadam village, aggrieved by the disciplinary penalty of removal from service imposed upon him filed this application on 3.5.1988. During the pendency of the application he died on 6.8.1990. Vide our order dated 14.10.1992 the Legal Representatives of the applicant were allowed to be brought on record.

2. The applicant while serving as Extra Departmental Branch Post Master (E.D.B.P.M.) applied for leave from 24.12.1983 to 31.12.1983 and the same was sanctioned to him. He could not however report for duty on the expiry of the leave ^{but} when reported for duty on 7.1.1984 he was refused ^{permission} to take charge of the duty. On 18.1.1984 he was allowed to join duty but was immediately put off duty w.e.f. the same date. He was served with a charge memo dated 27.9.1985. A departmental enquiry was held at the end of which, ^{the} disciplinary authority imposed the penalty of removal from service. The Appellate authority and Review ~~authorities~~ affirmed the penalty.

3. Mr. P.N.Sanghi, learned counsel for the applicant assailed the legality of the penalty order essentially on 3 grounds. Firstly he contended that the enquiry was not conducted in accordance with the principles of fairplay and natural justice. He asserted that the enquiry officer relied mainly on the statements

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of the essential witness record during a preliminary enquiry that was held on 17-18/1/1984. The said statements made by the witnesses during the preliminary enquiry were recorded behind ^{to} back of the applicant and the same could not have therefore ^{been} used during the enquiry to the prejudice of the applicant. There are also certain discrepancies and inconsistencies in the statements of the witnesses during the enquiry and therefore it cannot be said that the charges against the applicant were proved. The second aspect stated by the applicant's counsel is that the disciplinary authority also relied on the same statements of the witnesses which were recorded during the preliminary hearing. Further, the disciplinary authority without indicating his own mind merely agreed ^{with} the findings of the enquiry officer and imposed the penalty of removal. The third issue raised by Mr. Sanghi is that there was a criminal complaint against the ^{lodged} applicant ^{lodged} by one of the postal employees. The charges in that criminal case against the accused were under Sections 353, 341 and 506 of the Indian Penal Code. The said criminal case resulted in the clean acquittal of the applicant. This would clearly show that the officials in the Branch Post Office of Kesaraipadam ^{were} which inimically disposed towards the applicant. The same individuals who deposed in the criminal court also deposed in the enquiry of departmental proceedings.

4. We have heard Mr. N. V. Ramana, Standing Counsel for the respondents. Mr. Ramana states that

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as the applicant himself died, the cause of action abates particularly when under the extant rules, an ED agent is neither entitled to any pension nor to any gratuity (when he is removed from service).

5. We have gone through the enquiry proceedings and the enquiry officer's report. There is no doubt that heavy reliance was placed upon the statements of the witnesses made during the preliminary enquiry. In this context it is to be seen that at the time of serving the charge memo the delinquent employee was informed through Annexures III and IV that the witnesses ~~would~~ deposit during the ~~pre~~ preliminary enquiry would be examined in the departmental enquiry and that the statements made by them during the preliminary enquiry would be produced during the enquiry. During the conduct of the ~~departmental~~ enquiry the statements made by the witnesses during the preliminary enquiry were duly produced ^{and} shown to the applicant and on which the applicant was allowed to cross examine ~~in~~ the witness~~es~~. The witness~~es~~ in each case not only reinstated his statement made during the preliminary enquiry but also further supplemented to it by answering several questions put to him by the applicant. In these circumstances it cannot be said that the guilt of the applicant was determined purely on the basis of the statements made ^{and} by the witnesses ~~through~~ the preliminary enquiry. The departmental enquiry seen as a whole would sufficiently bring out the guilt of the applicant on both the charges leveled against him.

6. The disciplinary authority having agreed with the enquiry officer's findings need not give a detailed order ^{for} the imposition of the penalty.

To

1. The Director, Govt. of India, Ministry of Posts and Telegraphs, Postal Services, APNE Region, Visakhapatnam.
2. The Senior Superintendent of Post Offices, Srikakulam Division, Srikakulam.
3. One copy to Mr. Pratap Narain Sanghi, Advocate, CAT.Hyd.
4. One copy to Mr. N.V.Ramana, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT Hyd.
6. One spare copy.

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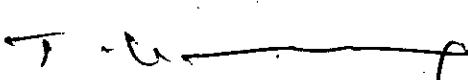
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Notwithstanding the same the disciplinary authority did discuss the evidence on record giving sufficient emphasis to the statements of the witnesses made during the preliminary enquiry. For the reasons already stated it cannot be said that the disciplinary authority erred either in making references to such statements or ~~in~~ finally concluded that he was in agreement with the enquiry officer's findings.

7. As regards the last contention made by the applicant's counsel that acquittal of the applicant in the criminal case would show that the officials in the Branch Post Office were ~~inclined~~ to him, ~~taken~~ ^{cannot} by itself be a sufficient ground to discredit the evidence adduced during the departmental enquiry.

8. In the result we find that the departmental enquiry has been sufficiently well conducted and that the findings arrived at by the enquiry officer ^{were} supported by the evidence on the record. The order of removal passed by the disciplinary authority, was approved by the appellate authority and review authority ^{yes} is sufficiently in order. The application therefore does not deserve to be allowed. The same is hereby dismissed. There shall be no order as to costs.

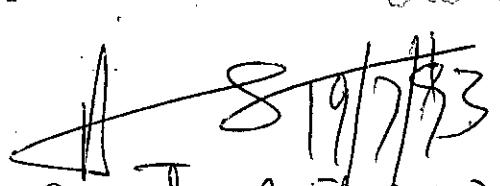

(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn.)

Dated: 15th July, 1993

(Dictated in Open Court)

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Deputy Registrar (J)