

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

Original Application
No.649/89

Date of order:8th June, 1992

BETWEEN

Sri K. Rangaiah

.. Applicant

A N D

1. The Secretary to Government,
Department of Posts,
New Delhi.
2. The Director of Postal Services,
A.P.N.R. Hyderabad
3. The Superintendent of Post Offices,
Nalgonda .. Respondents

Counsel for the Applicant :Sri K.S.R.Anjaneyulu

Counsel for the Respondents:Sri N.Bhaskara Rao,Addl.CGSC

CORAM:

THE HON'BLE MR. A.B. GORTHI, MEMBER (ADMN)

THE HON'BLE MR. T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

ORDER OF THE DIVISION BENCH DELIVERED BY HON'BLE

MR A.B. GORTHI, MEMBER (ADMN)

This Application is against the punishment order of removal from the post of Branch Post Master, Dandampalli, Nalgonda District, vide impugned order dated 26.5.1989. The applicant, Shri K. Rangaiah aggrieved by the said order of removal from the service has filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking our intervention to quash the punishment order and to re-instate him in service with all consequential benefits.

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2. The applicant, who was working as Branch Post Master, Dandampalli and had completed more than 13 years of service in the said post, was served with a charge memo dated 22.7.1987 containing three charges. The averments alleged in the charge memo ^{were} that, he failed to pay two money orders to the payees, that he failed to clear the letter box at Pittampally during the period from 24.1.1987 to 16.2.1987 and that he was unauthorisedly absent from duty from 18.11.1986 to 28.11.1986. An Enquiry Officer was appointed and a regular department enquiry was held. On conclusion of the enquiry, the Enquiry Officer found the applicant not guilty of charge 1 and 3, but was partly ~~xxx~~ guilty of charge no.2. But the competent Disciplinary Authority, disagreeing with the Enquiry Officer's findings concluded that Charge No.1 against the applicant also stood proved and accordingly finding the applicant guilty of charge nos. 1 & 2, he imposed the punishment of removal from the service. The applicant preferred an appeal, but the Appellate Authority rejected the same.

3. The applicant's contention is that there was no evidence to establish his guilt on any of the three charges, that the Enquiry was not conducted and that the Disciplinary Authority did not give any opportunity to him before he disagreed with findings of the Enquiry Officer.

4. The respondents have clarified that Enquiry, sufficient evidence was adduced based on which the competent Disciplinary Authority found applicant guilty of charge 1 & 2 ^{that} and he was not disagree with the findings recorded by the Enquiry Officer and accordingly, there cannot be anything wrong with the decision of the Disciplinary Authority. I

P-17

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the applicant had the opportunity to appeal against the disciplinary award which he did and the appeal of the applicant was duly considered and was rejected through a reasoned order by the Comptent Appellate Authority. The respondents thus contended that there was nothing irregular with the enquiry and that the punishment of removal from service was rightly imposed upon the applicant.

5. We have heard the counsel for both the parties.

6. A Learned Counsel for the applicant attempted to take us through the Enquiry Proceedings with a view to show that the evidence on record was not sufficient to establish the charges. The fact remains that there was some evidence on record and the same was duly analysed both and considered by the Enquiry Officer as also by the Disciplinary Authority. The Disciplinary Authority, having stated the reasons, dis-agreed with the Enquiry Officer's findings.

7. The next point that was strongly contended by the learned counsel for the applicant was that the Disciplinary Authority failed to give an opportunity to the applicant before dis-agreeing with the Enquiry Officer's findings which went largely in favour of the applicant. Countering this argument, learned counsel for the Respondents stated that since the applicant had been given an opportunity to appeal which he did, no substantial injustice could be said to have been done to him. In this context, we may refer to a decision of the Hon'ble Supreme Court in the Case of Narayan Misra Vs State Of Orissa reported in 1969(3) SLR 657. In that

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P320

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case, commenting on the failure of the Authority to give a reasonable opportunity to a delinquent employee before dis-agreeing with the findings of the Enquiry Officer, the Supreme Court observed that such failure was against all principles of fair play and natural justice. Accordingly, in the instant case, we must hold that the failure of the Disciplinary Authority to provide a reasonable opportunity to the applicant to explain his case, before the Disciplinary Authority dis-agreed with the findings of the Enquiry Officer, vitiated the resultant punishment order of removal from service. Hence, we accordingly set aside the order of removal of the applicant from service and remit the case back to the Disciplinary Authority for dealing with it in accordance with law. If the Disciplinary Authority wants to take into account charges 1,3 and part of charge no.2 of which the applicant is exonerated, the Disciplinary Authority shall give proper notice to the applicant intimating him that those charges would also be considered against him and thus afford an opportunity to the applicant to explain them. As it was contended before us that a copy of the Enquiry Report was not furnished to the applicant, we direct the Disciplinary Authority to serve a copy of the Enquiry Report and also issue a show cause notice to the applicant why the findings of the Enquiry Officer with regard to the proved charges against the applicant should not be accepted and to permit the applicant to submit his representation with regard to the charges that are held to be proved by the Enquiry Officer against the applicant. As and when the Disciplinary proceeding against the applicant is completed, the manner as to how the period spent in the proceeding should be treated, would depend upon the ultimate result

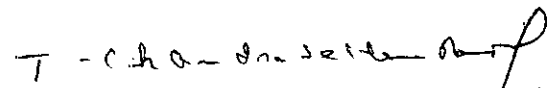
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of the proceeding. Should the applicant bring out any such points as have been brought out by him in this application with regard to the adequacy or otherwise of the evidence, it is expected that the Disciplinary Authority will take those into consideration and pass a speaking order thereon. Append a copy of the OA to this order.

The application is allowed in the above terms without any order as to costs.


(A.B. GORTHI)
MEMBER (ADMN)


(T.CHANDRASEKHARA REDDY)
MEMBER (JUDICIAL)

Dated: The Eighth June, 1992

(Dictated in the Open Court)


Deputy Registrar (Judl.)

Copy to:-

1. The Secretary to Government, Department of Posts, New Delhi.
2. The Director of Postal Services, A.P.N.R., Hyderabad.
3. The Superintendent of Post Offices, Nalgonda [with copy of OA]
4. One copy to Sri. K.S.R. Anjaneyulu, advocate, CAT, Hyd.
5. One copy to Sri. N. Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. One copy to Hon'ble Mr. T. Chandra Sekhar Reddy, Judicial Member, CAT, Hyd.
7. One spare copy.

Rsm/-

