

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 674 of 1989  
~~XXXXX~~

Date of Decision : 2 October, 1990

Mr. B. Srinivas Petitioner.

Mr. B. Bhavanarayana, Advocate for the  
petitioner (s)

Versus

The Chief Admve. & Accts. Officer-cum- Respondent:  
Disc. Authority, Atomic Minerals Division, Hyderabad.

Mr. Naram Bhaskar Rao, Addl. CGSC Advocate for the  
Respondent (s)

CORAM :

THE HON'BLE MR. J. Narasimha Murthy, Member (Judl.)

THE HON'BLE MR. B. N. JAYASIMHA, VICE CHAIRMAN.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

  
HJNM

  
HVC

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

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ORIGINAL APPLICATION NO.674 of 1989

DATE OF ORDER: 12<sup>th</sup> December  
OCTOBER, 1990.

BETWEEN:

B.Srinivas

..

Applicant

and

The Chief Admve. & Accts. Officer, cum-  
Disciplinary Authority,  
Atomic Minerals Division,  
Department of Atomic Energy,  
Hyderabad.

..

Respondent

FOR APPLICANT : Mr. B.Bhavanarayana, Advocate

FOR RESPONDENT : Mr. Naram Bhaskar Rao, Addl. CGSC

CORAM: Hon'ble Shri B.N.Jayasimha, Vice Chairman  
Hon'ble Shri J.Narasimha Murthy, Member (Judl.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE  
SHRI J.NARASIMHA MURTHY, MEMBER(JUDL.)

This petition has come for admission before the Bench and after hearing both the sides, ~~the~~ orders were reserved. The relief claim in this petition is to issue a direction that the order of dismissal dated 28.8.1989 against the applicant issued by the respondent is premature, illegal, arbitrary and hence to quash the same or to keep it in abeyance till the disposal of the Criminal Appeal No.218 of 1989 on the file of the 2nd Additional Metropolitan Sessions Judge, Hyderabad. The contents of the petition are as follows:-



(70)

The petitioner was appointed as a Lower Division Clerk in the Atomic Minerals Division, Department of Atomic Energy with its office at Begumpet, Hyderabad from 24.3.81. After some time, he was transfer<sup>-red</sup> to the Administrative branch and posted to recruitment section from 16.10.1981. He has become an Upper Division Clerk in 1984. While so, a lady falsely alleged that the applicant tried to outrage her modesty and caused injury. A police report was given. Police registered a case vide Crime No.152/87 under Sections 354 and 324 IPC and arrested him on 6.11.1987. As both the offences are bailable, the applicant was released on Bail. After the criminal trial was over, the petitioner was found guilty and the trial court sentenced the petitioner to suffer R.I. for six months. The petitioner applied for Bail ~~immediately after pronouncing the judgment~~ immediately after pronouncing the judgment. The sentence was suspended and the petitioner was released on Bail pending filing of criminal appeal in the appellate court. He filed the criminal appeal No.218/89 on the file of the 2nd Additional Metropolitan Sessions Judge's Court, Hyderabad. The judgment and the sentence of the lower court were again suspended and the applicant was allowed to continue to be on Bail till the disposal of the criminal appeal. Meanwhile, the respondents issued a show cause notice by way of a Memo to the applicant proposing to impose a major penalty of dismissal on account of conviction in the criminal case. The show cause notice was received by the applicant on 2.8.1989 and a detailed explanation was submitted by the applicant on 10.8.1989. But the respondents passed orders dated 28.8.1989 rejecting the request of the applicant and imposing the penalty of dismissal from service with immediate effect<sup>i.e.,</sup> w.e.f. 28.8.1989. He filed the present petition for the above said reliefs.



2. The respondent did not file any counter. Shri B. Bhavanarayana, learned counsel for the applicant and Shri Naram Bhaskar Rao, learned Additional Standing Counsel for the Central Government/Respondent, argued the matter. The contention of the learned counsel for the petitioner is that the sentence imposed against the petitioner herein has not become final and hence the imposition of the major penalty of dismissal or any other penalty when the matter is pending in an appeal is unjust and causes hardship to the applicant. He states that the applicant is residing in a quarter provided by the Government and he has to vacate the quarter if the order of dismissal is implemented. He further submitted that the children of the applicant are studying in a school and lot of inconvenience is caused to the petitioner by the above said punishment.

3. This is not a case between the petitioner and the Department. It is a case filed against the petitioner by some 3rd party alleging something against the petitioner. Insofar as the department is concerned, there is no <sup>ground</sup> ~~ground~~ <sup>wa</sup> for the department against the petitioner and the petitioner never adamant to the department in discharging his duties and he was peacefully working in the department. By a private complaint given by a third party, the petitioner was convicted and he was released on Bail. After the petitioner was released on Bail, he immediately filed an appeal and got the sentence suspended and he was enlarged on Bail. He contends that there is every likelihood that he may win the case in the appeal and so pending the disposal of the appeal, the order of dismissal from service may be quashed.

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To

1. The Chief Admve. & Accounts Officer-cum-Disciplinary Authority,  
Atomic Minerals Division,  
Department of Atomic Energy,  
Hyderabad.
2. One copy to Mr. B. Bhavanarayana, Advocate,  
11/2 RT LIGH Colony,  
Mangalhat, Dhoolpet,  
Hyderabad - 500 006, A.P.
3. One copy to Mr. Naram Bhasker Rao, Addl. CGSC.
4. One copy to The Hon'ble Mr. J. Narasimha Murthy,  
Member (Judl.), C.A.T., Hyderabad Bench,  
Hyderabad.
5. One Spare Copy.

srr/

2/10 with copy

7/2

13/12/90

5/11/90

(8)

4. There is no order passed that one should not be removed from service after he was convicted in a criminal case. It will depend upon final result of the criminal appeal filed by the applicant. In these circumstances and basing on the facts of the case, we admit the application and dispose of the O.A. itself with an observation that we are not in a position to interfere with the impugned order of dismissal from service and that the applicant is not entitled to the relief claimed by him i.e., quashing of the impugned penalty order of dismissal from service and taking into consideration the inconvenience caused to the family and children of the application due to eviction from the quarter, we direct the respondent to allow the applicant to continue in the quarter pending disposal of the criminal appeal filed before the 2nd Additional Metropolitan Sessions Judge, Hyderabad.

5. The application is accordingly disposed of with no costs.

*MS*

(J.NARASIMHA MURTHY)  
Member(Judl.)

*B.N. Jayasimha*

(B.N.JAYASIMHA)  
Vice Chairman

Dated: *12<sup>th</sup> October* ~~October~~, 1990.

*Dr. S. S. Damodaran*  
*for Dy. Registrar*