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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT  
HYDERABAD

~~TRANSFERRED~~ / ORIGINAL APPLICATION NO. 915 of 1989

DATE OF ORDER: 21st December, 1989

BETWEEN:

K.Jayaram Prasad

APPLICANT(S)

and

The Chief Post Master General,  
Hyderabad and 3 others

RESPONDENT(S)

FOR APPLICANT(S): Mr. M.B.Thimma Reddy, Advocate

FOR RESPONDENT(S): Mr. J.Ashok Kumar, SC for Postal Department

CORAM: Hon'ble Shri D.Surya Rao, Member (Jud1.)  
Hon'ble Shri R.Balasubramanian, Member (Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgment?
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 Bench 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)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD.

ORIGINAL APPLICATION No. 915 of 1989

DATE OF ORDER: 21st December, 1989.

Between:-

K. Jayaram Prasad. ...Applicant(s)

and

The Chief Post Master General,  
Hyderabad and 3 others.

...Respondent(s)

FOR APPLICANT(S): Mr. M. B. Thimma Reddy, Advocate.

FOR RESPONDENT(S): Mr. J. Ashok Kumar, SC for Postal  
Department.

CORAM: HON'BLE SHRI D. SURYA RAO: MEMBER: (JUDL)  
HON'BLE SHRI R. BALASUBRAMANIAN: MEMBER: (ADMN.)

THE TRIBUNAL MADE THE FOLLOWING ORDER:-

contd..

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JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO,  
MEMBER (JUDL.)

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The applicant herein is working as UDC in the Postal Department, Rajampet, Cuddapah District. He states that he got the benefit of the Supreme Court Judgment along with other employees of the Life Insurance Corporation of India and was given an offer of appointment on 6.6.1989. He submitted his resignation letter on 9.6.1989 to the Postal Department followed by several reminders. As no action was taken, he had filed O.A.No.824 of 1989 before this Tribunal to direct the respondents to accept his resignation. This Tribunal directed the respondents to pass an order within two weeks. Thereupon, he received a letter dated 10.11.1989 stating that his resignation cannot be accepted at that stage. No reasons were given as to why the resignation could not be accepted. The applicant submits that this is not a speaking order and he is in dark as to why his resignation could not be accepted.

2. On behalf of the respondents, a counter has been filed stating that the applicant had been involved in a departmental case and the same is under investigation. It is stated that when a government servant's conduct is under investigation and resigns from the job, the case has to be examined with reference to the merits of the disciplinary case before acceptance of the resignation. It is stated that there was a case relating to wrong credit of Rs.1900/- into the SB account of the applicant, that due to elaborate procedure prescribed in verification of SB accounts in cases of <sup>such</sup> above irregularities, the applicant could not be proceeded departmentally. In the circumstances the applicant's resignation could not be accepted.

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3. We have heard the learned counsel for the applicant and Shri Ashok Kumar, the learned Standing Counsel for the on behalf of the respondents Respondents/Department. It is contended/that the applicant's resignation could not be accepted as there was a wrong credit of two amounts, Rs.1380/- and Rs.520/- into the SB Account constituting interest for the years 1983-84 and 1984-85. The applicant, who was a UDC dealing with the SB accounts in Kurnool Head Office, should not have withdrawn this amount from SB A/c since he is not entitled to these credits. The applicant's case is that, immediately when the excess withdrawal was detected, he had credited the amount together with the penal interest in the year 1987 itself. Thereafter, no further action was taken. It is, therefore, contended by the learned counsel for the applicant that the resignation cannot be refused on the ground of the alleged excess withdrawals in the year 1987 as no disciplinary action had been initiated or commenced against the applicant. We have called for the original records relating to the aforementioned withdrawals. The file disclosed that these sums were admittedly withdrawn in the year 1987 and the applicant had made good the amount by crediting the same on 24.2.1987. The Department had accepted the said amount without any objection at that stage. It is seen that till today no disciplinary proceeding has been initiated in the form of framing charges and serving of the same upon the applicant in regard to the said irregularity. It cannot, therefore, be said that any disciplinary case is pending against the applicant. It has been held in various decisions that delay in initiating or taking disciplinary action would vitiate the action...vide: 1976(1) SLR 133 (Delhi); 1980 (1) SLR 234 (Gujarat); 1981 (2) SLR 723 (Karnataka); 1984(2) SLR 160 (Kerala); 1988(6) ATC 246 (Hyderabad Bench of CAT); 1988(9) ATC 500 (Ahmedabad Bench of CAT). Unexplained delay was the ground for quashing the proposed disciplinary action.

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4. Applying the said decision, it would follow that it would not be open to the respondents at this late stage to commence the disciplinary action against the applicant. In the circumstances, there should, therefore, be no impediment in accepting the resignation of the applicant. The respondents are directed to accept the resignation of the applicant within a period of ten days from the date of receipt of this order. The application is accordingly allowed. There will be no order as to costs.

(Dictated in the open Court).

*D. Surya Rao*  
(D. SURYA RAO)  
Member (Judl.)

*R. Balasubramanian*  
(R. BALASUBRAMANIAN)  
Member (Admn.)

Dated: 21st December, 1989.

*S. Venkateswar*  
DEPUTY REGISTRAR (J)

4-1-80

TO:

1. The Chief Post Master General, Abids, Hyderabad, A.P.
2. The Director of postal services, southern region, Ashoknagar, near Railway Station, Kurnool.
3. The Assistant Director of postal services, Ashoknagar, near Railway station, Kurnool.
4. The Accounts officer of Internal check organisation (Savings Bank) office of the Director of postal services, Ashoknagar near railway station, Kurnool.
5. One copy to Mr. M. S. Thimma Reddy, Advocate, 46-A, Santhoshnagar, Mehdipatnam, Hyderabad.
6. One copy to Mr. J. Ashok Kumar, SC for postal department, CAR, Hyderabad.
7. One spare copy.

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kj.

*W.K.S. 3/1/80*