

(102)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

D.A. No. 916/89.

~~Exhibit Book~~

Dt. of Decision: 16.11.82

M. Koteswara Rao

Petitioner

Shri K.S.R. Anjaneyulu

Advocate for
the Petitioner
(s)

Versus

Union of India, Rep. by the Secy., to Govt.,
Dept. of Posts, New Delhi & 2 others

Respondent.

Shri N.R. Devaraj, Sr. GSC

Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR. R. Balasubramanian : Member (A)

THE HON'BLE MR. C.J. Roy : Member (J)

1. Whether Reporters of local papers may be allowed to see the judgment? *yes*
2. To be referred to the Reporters or not? *yes*
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.)

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HRBS
M(A).

HCJR
M(J).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.916/89.

Date of Judgement 16.11.91

M.Koteswara Rao

.. Applicant

Vs.

Union of India, Rep. by

1. The Secy., to Govt.,
Dept. of Posts,
New Delhi.
2. The Director of Postal
Services, A.P.Northern Divn.,
Hyderabad-1.

3. Sr. Supdt. of Post Offices,
Secunderabad. .. Respondents

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

Counsel for the Respondents : Shri N.R.Devaraj, Sr. CGSC

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

I Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)

This application has been filed by Shri M.Koteswara Rao against the Union of India, Rep. by the Secy., to Govt., Dept. of Posts, New Delhi & 2 others under section 19 of the Administrative Tribunals Act, 1985 to declare the order of compulsory retirement awarded by the Sr. Supdt. of Post Offices, Secunderabad in his letter No.F4/2/85-86 dt. 22.2.89 and upheld by Director of Postal Services, APNR, Hyderabad in his Memo No.RDH/ST/21-3/19/89 as arbitrary, illegal and set aside the same and to direct the respondents to reinstate the applicant with all consequential benefits.

2. The applicant, a Postal Assistant was served with a charge-sheet. An enquiry was held. The Disciplinary Authority imposed the punishment of compulsory retirement. The applicant preferred an appeal which was rejected. Hence this O.A.

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3. When the case was taken up for final hearing on 4.11.92, the learned counsel for the applicant chose to rely initially on the ground that a copy of inquiry report was not given to the applicant before the punishment order was issued and therefore pressed for his prayer being granted. It was contended that the punishment order and the appellate order should be quashed applying the principle laid down in the Full Bench decision in the case of Prem Nath K.Sharma Vs. Union of India & others [1988(3) SLJ 449 (CAT)]. This was not denied by the respondents who relied on the decision of the Hon'ble Supreme Court in the case of S.P.Viswanathan Vs. Union of India & others [1991 Supp(2) SCC 269].

4. We have seen the case. Referring to the case of Union of India & others Vs. Mohd. Ramzan Khan (AIR 1991 SC 471) wherein the principle laid down in the Prem Nath K.Sharma case of the Full Bench of this Tribunal was upheld, the Hon'ble Supreme Court ruled in the case of S.P.Viswanathan that the law laid down in the Mohd. Ramzan Khan case should be applied to cases where punishments attracting that law, were inflicted after 20.11.90. In the present case, the punishment was inflicted on 22.2.89. The learned counsel for the applicant, however, relied on a judgement of the Principal Bench of this Tribunal dt. 18.5.92 in their O.A.No.201/92 [1992(2) ATJ 175]. The Bench observed that another case decided by a 3 Judge Bench of the Supreme Court [AIR 1969 (SC) 1302] was not brought to the notice of the Bench of the Supreme Court which passed the judgement in the S.P.Viswanathan case. That Bench clearly saw that the law laid down in the Mohd. Ramzan Khan case was there even in 1969 and held that such law/prospective from 1969 itself instead of November, 1990 as held by the Supreme Court

To

1. The Secretary to Govt., Union of India,
Dept. of Posts, New Delhi.
2. The Director of Postal Services,
A.P.Northern Division, Hyderabad-1.
3. The Sr. Superintendent of Post Offices,
Secunderabad.
4. One copy to Mr .K.S.R.Anjaneyulu. Advocate, CAT.Hyd.
5. One copy to Mr .N.R.Devraj, Sr.CGSC,CAT.Hyd.
6. One copy to Deputy Registrar(J)CAT.Hyd.
7. Copy to All Reporters as per standard list of CAT.Hyd.
8. One spare copy.

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in the S.P.Viswanathan case. The following point cannot however, be overlooked.

If the judgement of the 3 Judge Bench of 1969 I AIR 1969 (SC) 1302 was not brought to the notice of the Supreme Court Bench which decided the S.P.Viswanathan case, was it not brought to the notice of the 3 Judge Bench which decided the Mohd. Ramzan Khan case also? It is the prospective nature of the law indicated in the Mohd. Ramzan Khan case that led to the clarification in the S.P.Viswanathan case. The 42nd amendment to the Constitution was in December, 1976. In the case of Mohd. Ramzan Khan, the Hon'ble Supreme Court observed that this amendment did not take away the need/furnish a copy of the inquiry report before inflicting the punishment, thereby holding that this basic requirement of natural justice is always there. Yet, they indicated a cut off date to follow the law laid down therein, evidently not to disturb past cases. Hence, we are not granting the relief prayed for on this ground that a copy of the inquiry report was not given to the applicant before the punishment order was passed, because of the decision of the Hon'ble Supreme Court in the S.P.Viswanathan case. The learned counsel for the applicant who has raised several grounds in the O.A. has the right to challenge the impugned order on those grounds. Hence, we dismiss this O.A. with liberty to the applicant to agitate, if he chooses, on other grounds. No order as to costs.

R. Balasubramanian
(R. Balasubramanian)
Member (A).

W. Roy
(C. J. Roy)
Member (J).

Dated: 16th November, 1992.

S. S. J. Roy
Deputy Registrar (J)

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CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY :
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 16 - 11 - 1992

~~ORDER~~ JUDGMENT :

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

in

O.A. No. 916 / 89

T.A. No. (wp. No)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

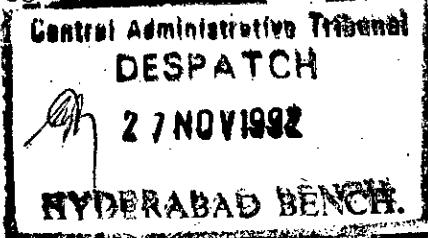
Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered / Rejected

No orders as to costs



pvm