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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.111/90

Date of Order: 13.8.1993

BETWEEN:

A N D

1. The Chief Superintendent,
Incharge, Central Telegraph
Officer, Hyderabad.
2. The Government of India,
Department of Telecommunications,
(Telecom Board),
New Delhi.

.. Respondents.

Counsel for the Applicant

.. Mr.Y.Rama Rao and
Mr.Y.Ashok Ray

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

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

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

13/8/93

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

The applicant while working as a Telegraph man in Central Telegraph Office, Hyderabad was charged with absence without leave from 10.9.1981 to 19.1.1982. In reply to the charge memo the applicant stated that he kept on sending leave applications and that he was suffering from Kidney trouble and as such could not report for duty. In view of his defence to the charge memo a regular enquiry was ordered. During the enquiry the applicant admitted the charge levelled against him and stated that there was no explanation to offer. Accordingly the enquiry officer held the charge as proved. The competent authority agreeing ^{with} the enquiry officer's finding imposed the penalty of removal from service vide the order dated 1.10.1982. Aggrieved by the penalty ^{order} ~~he~~ he submitted an appeal to the Chief Superintendent C.T.O., Hyderabad on 11.7.1983. As regards the delay in appealing, the applicant stated that he was ignorant of his right to appeal. The appeal was rejected on 16.8.1983. After lapse of about 4 years the applicant on 29.3.1987 submitted a petition to the Member (Admn.) P&T Board, New Delhi praying for a review. His review petition was examined extensively and an order was passed on 28.9.1988 rejecting the prayer of the applicant. Aggrieved by the same he has filed this OA.

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2. In the counter affidavit, the respondents stated that the applicant was a habitual offender and that as he once again remained absent from 10.9.1981 to 19.1.1982 he was served with a charge memo. In the departmental enquiry that followed the applicant admitted his guilt and accordingly the penalty of removal was imposed. Neither his appeal nor his petition for review were sent in time, ^{but} ² ~~for~~ his request for review was examined at length and was rejected by means of a reasoned order. The respondents' contention ~~is~~ that the applicant was dealt with strictly in accordance with the rules and that the punishment imposed by him was not severe in view of the fact that he had earlier been once punished for a similar offence by the award of the penalty of ~~reduction~~ ^{to} the minimum scale of pay for a period of 3 years.

3. We have heard the learned counsel for both the parties. The applicant's counsel urged before us that the applicant was indeed seriously ill during the period of his absence and that in fact he was suffering from mental illness. In support of the state of health the applicant did furnish a medical certificate issued by a Gazetted ~~Hakeem~~ of Government Nizamia Hospital, Hyderabad. The medical certificate produced on 18.1.1982 covered the entire period from 10.9.1981 to 19.1.1982. As regards the delay in submitting the appeal ~~and~~ also the review petition it was entirely on account of the ignorance of the applicant and partly because of ^{his} ~~the~~ state of health. Finally the learned counsel for the applicant stated that the ~~arrangements~~ ^{punishment} ² of removal from

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Copy to:-

1. The Chief Superintendent, Incharge, Central Telegraph Officer, Hyderabad.
2. The Government of India, Department of Telecommunications, (Telecom Board), New Delhi.
3. One copy to Sri. Y. Rama Rao, advocate, 13/B Velgalrao nagar colony, Hyderabad.
4. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

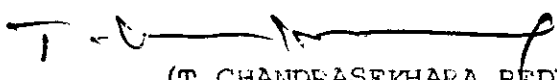
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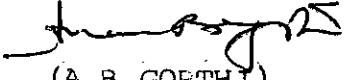
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from service for a charge of absence without leave is disproportionate to the gravity of the misconduct.

4. Having heard the learned counsel for both the parties and after perusing the record before us we are satisfied that in the matter of conduct of enquiry or in the imposition of penalty of removal there has been no such irregularity or illegality as would justify or warrant our interference. As regards the quantum of ~~apart~~ punishment, ^{apart} ~~appeal~~ from the fact that it is not for the Tribunal to go into the said question, we find that as explained in the counter affidavit the applicant was a habitual offender and in the punishment of reduction to the minimum scale of pay awarded to him for a similar offence in 1976 did not bring any improvement in his service discipline. In view of this we are not inclined to accept the contention that the penalty imposed on the applicant is ~~to~~ harsh or ~~to~~ disproportionate.

5. In the result, the application is dismissed. There shall be no order as to costs.

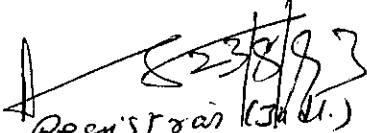

(T. CHANDRASEKHARA REDDY)
Member (Judl.)

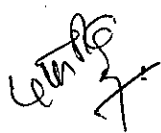

(A.B. GORTHI)
Member (Admn.)

Dated: 13th August, 1993

(Dictated in Open Court)

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Dy. Registrar (Judl.)



O.A. 111/90

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 13/8/1993

ORDER/JUDGMENT: ✓

M.A./R.A./C.A.N.

in

O.A. No.

111/90

T.A. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

Central Administrative Tribunal

DESPATCH

30 AUG 1993

HYDERABAD BENCH.

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