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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

O.A. No. 183/90
T.A. No.

Dt. of Decision 10.6.93

I. Brahamandha Rao

Petitioner

Mr. K.S.R. Anjaneyulu

Advocate for
the petitioner
(s)

Versus

Secretary to Govt. of India and Director General,
Dept. of Posts, New Delhi and 2 others.

Respondent.

Mr. N.V. Ramana

Advocate for
the Respondent
(s)

CORAM

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

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

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
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.)

ns

(HTCSR)
M(J)

(HABG)
M(A)

(83)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.183/90

Date of Order: 10.8.19

BETWEEN:

I.Bramhanandha Rao

.. Applicant.

A N D

Union of India rep. by:

1. Secretary to Government and
Director General, Department
of Posts, New Delhi.
2. The Director of Postal Service,
Visakhapatnam.
3. Senior Superintendent of Post
Offices, Bhimavaram.

.. Respondents.

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Counsel for the Applicant

.. Mr.K.S.R.Anjaneyulu

Counsel for the Respondents

.. Mr.N.V.Ramana

CORAM:

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

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

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

The applicant who is working as BPM, Agarru was served with a charge memo on 13.9.1986. After regular departmental enquiry, the enquiry officer found him not guilty of Articles 1 and 3 but partly guilty of Article 2. The disciplinary authority however disagreed with the findings of the enquiry officer and found him guilty of all the charges. Consequently, he awarded the penalty of dismissal from service. Aggrieved by the same, the applicant has prayed in this application that the penalty of dismissal from service be set aside and that he be reinstated in service with all consequential benefits.

2. We have heard Mr.K.S.R.Anjaneyulu, Advocate for the applicant and Mr.N.V.Kamana, Standing Counsel for the respondents at length.

3. Mr.K.S.R.Anjaneyulu has assailed the validity of the penalty on several grounds but it is sufficient for us to examine one aspect of the case that is raised by the learned counsel for the applicant. His contention is that disciplinary authority the/ disagreed with the enquiry officer's findings without giving any prior notice to the applicant. Our attention has been drawn to the decision of the Hon'ble Supreme Court in the case of NarayanaMisra Vs State of Orissa 1969 SLR 657 wherein it was observed as under:

"Where the disciplinary authority does not agree with the recommendation of the enquiry officer exonerating the accused, the disciplinary authority should give an opportunity to the accused officer before punishing him. Omission to do so will be against all principles of fairplay and natural justice."

4. Mr.N.V.Ramana, Standing Counsel for the respondents had contended that firstly the EDA Conduct and Service Rules did not prescribe any such procedure wherein the disciplinary authority is required to give a notice to the applicant before disagreeing with the findings of the enquiry officer. Rule 8 which deals with the procedure for imposing penalties, admittedly does not contain any such provision requiring a notice to be issued to the applicant in such circumstances. We are not inclined to accept this contention because as has been sufficiently clarified by the Hon'ble Supreme Court, the requirement of furnishing a notice to the delinquent employee, in a case of this nature is based on the principles of fair play and natural justice. There cannot be any violation of ~~xx~~ either any principle of fair play of natural justice in the matter of imposition of penalty in a departmental proceedings which are quasi judicial in nature.

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5. Mr.N.V.Ramana further contended that the applicant did not raised this particular issue in ~~an~~ ^{his} appeal submitted to the appellate authority. Even if that be so, we find no reason why the applicant cannot successfully agitate a question of law of this kind in the application before us. Now that he has raised the issue in the application which is before us, we must adjudicate upon the same and give a decision.

6. In view of the facts of the case and the judgement of the Hon'ble Supreme Court in Narayan Misra's case we set aside the impugned order dated 30.9.1988. The respondents will be at liberty to proceed further in the matter by giving due notice to the applicant, if they ^{so} choose. The application is disposed of in the above terms, there shall be no order as to costs.

T. Chandrasekhara Reddy
(T.CHANDRASEKHARA REDDY)
Member (Judl.)

A.B. Goethin
(A.B. GOETHIN)
Member (Admn.)

Dated: 10th June, 1993

(Dictated in Open Court)

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Deputy Registrar (J)

To sd

1. The Secretary to Govt. and Director General, Union of India, Dept. of Posts, New Delhi.
2. The Director of Postal Service, Visakhapatnam.
3. The Senior Superintendent of Post Offices, Bhimavaram.
4. One copy to Mr.K.S.P.Anjaneyulu, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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9/7/93

TYPED BY (4) COMPARED BY
CHECKED BY 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. K. BALASUBRAMANIAN :
MEMBER (ADMN)

AND

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

DATED: 10-6-1993

ORDER/JUDGMENT

R.P./ C.P/M.A.No.
in

O.A.No. 183/90.

T.A.No. (W.P.No)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed as withdrawn.

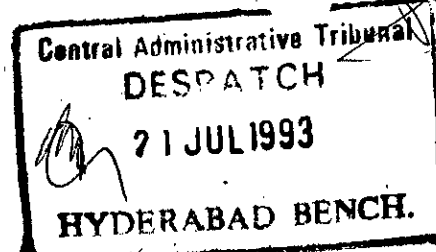
Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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