

(68)

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

D.A.No. 220 of 1990

XXXXXX

DATE OF DECISION: 2-4-1990

I.Ramudu

Petitioner.

Shri T.Jayant, Advocate.

Advocate for the
petitioner(s)

Versus

Union of India, represented by the
Secretary, Ministry of Communications,
New Delhi, & 2 others.

Respondent.

Shri J.Ashok Kumar, SC for Postal.

Advocate for the
Respondent(s)

CORAM:

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

THE HON'BLE MR. D.SURYA RAO, MEMBER(JUDICIAL).

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 Benches of the Tribunals ?
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)

NO

bns
(B.N.J.)

DR
(D.S.R.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT : HYDERABAD

O.A.No. 220 of 1990

Date of Order: 2-4-1990

Between:

I.Ramudu

Applicant

and

1. Union of India, represented by the
Secretary, Ministry of Communications,
New Delhi-1.

2. The Director of Postal Services, A.P.
Northern Region, Hyderabad-1.

3. The Superintendent of Post Offices,
Adilabad Division, Adilabad, Adilabad dt.

..

Respondents

Appearance

For the Applicant : Shri T.Jayanti, Advocate.

For the Respondents : Shri J.Ashok Kumar, Standing
Counsel for Postal.

CORAM:

THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI D.SURYA RAO, MEMBER (JUDICIAL).

(JUDGEMENT OF THE BENCH DELIVERED BY HONOURABLE SHRI D.SURYA RAO,
MEMBER (JUDICIAL))

1. The applicant herein is a Postal Assistant working under the 3rd respondent. In this application he seeks to question the order bearing Memo No.F4-1/85-86, dated 30-5-1989 issued by the 3rd respondent herein compulsorily retiring him from service by way of punishment under C.C.S.(CCA) Rules, 1965. He states that an appeal preferred by him to the Appellate Authority is still to be disposed off though 6 months have expired from the date of filing of appeal on 10-7-1989.

2. The main ground on which the order of compulsory retirement is questioned is that the disciplinary authority in violation

.../...

P1
16

(X)

of the principles of natural justice and only relying upon the Inquiry Officers' report and findings of the Inquiry ~~but~~ without furnishing a copy of the Inquiry Report to the applicant, ~~passed~~ passed the impugned order compulsorily retiring him from service. It is contended that ~~relying~~ upon the decision of the Tribunal in Premnath Sharma vs. Union of India's ^{it is contended that} ~~case, the impugned order is liable to be set aside.~~

3. We have heard Shri T.JAYANT, learned ~~XXXXXX~~ Counsel for the Applicant, and Shri J.Ashok Kumar, learned Standing Counsel for the Department, who took notice at the admission stage.

4. In Premnath K.Sharma vs. Union of India and others ((1988) 6 Administrative Tribunals Cases 904), the New Bombay Bench of this Tribunal held as follows:-

" Even after the amendment of Article 311(2) by the 42nd Amendment, the Constitution guarantees a reasonable opportunity to show cause against the charges levelled against the charged officer during the course of the enquiry. In order to fulfil the constitutional requirement he must be given an opportunity to challenge the enquiry report also. The Enquiry Officer enquires into the charges, the evidence is recorded and the charged officer is permitted to cross-examine the witnesses and challenge the documentary evidence during the course of the enquiry. But the enquiry does not conclude at that stage. The enquiry concludes only after the material is considered by the Disciplinary Authority, which includes the Enquiry Officer's report and findings on charges. The enquiry continues until the matter is reserved for recording a finding on the charges and the penalty that may be imposed. Any finding of the Disciplinary Authority on the basis of the Enquiry Officer's report which is not furnished to the charged officer would, therefore, be without affording a reasonable opportunity in this behalf to the charged officer. It therefore follows that furnishing a copy of the enquiry report to the charged officer is obligatory. "

.../...

P2
1/8

(A)

For the aforesaid reasons, we hold the enquiry is
 compulsorily
 vitiated and the order imposing the penalty of retiring him
 from service must be quashed. This, however, will not
 preclude the respondents from supplying a copy of the
 enquiry report to the applicant and give him an opportunity
 to make his representation and proceeding to complete the
 disciplinary proceedings from that stage. The application
 is allowed to the extent indicated above but in the circum-
 stances we make no order as to costs. If the respondents
 choose to continue the disciplinary proceedings and complete
 the same, the manner as to how the period spent in the
 proceedings should be treated would depend upon the ultimate
 result. Nothing said herein would affect the decision of
 the Disciplinary Authority. At the same time, we hasten to
 add that this order of the Tribunal is not a direction to
 necessarily continue the disciplinary proceeding. That is
 entirely left to the discretion of the Disciplinary Authority.

(Dictated in the Open Court)

B.N.Jayashimha
 (B.N.JAYASIMHA)
 VICE-CHAIRMAN

D.Surya Rao
 (D.SURYA RAO)
 MEMBER (JUDICIAL)

Date: 2-4-1990

T. Venkateswaran 16/4/90
 DEPUTY REGISTRAR (A).

To

1. The Secretary,
 1. Union of India, Ministry of Communications, New Delhi-1.
 2. The Director of Postal Services, A.P., Northern Region, Hyderabad
 3. The Superintendent of Post Offices, Adilabad Division, Adilabad,
 Adilabad dt.
 4. One copy to Mr.T.Jayant, Advocate, 17-25B, Srinagar Colony,
 Gaddiannaram, P&T Colony, ILSUKHNAGAR, Hyderabad-500660.
 5. One Copy to Mr.J.Ashok Kumar, SC for Deptt. of Posts, CAT, HYD.
 MSR One spare copy.

Hyderabad Division

Hyderabad

Draft by: Checked by: Approved by:
D.R.(J)

Typed by: *BS/4* Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

HON'BLE MR.B.N.JAYASIMHA: (V.C.)

A N D

HON'BLE MR.D.SURYA RAO: MEMBER: (JUDL.)

A N D

HON'BLE MR.J.NARASIMHA MURTHY: (M)(J)

A N D

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

DATED: 21/4/90

ORDER/JUDGMENT:

M.A./R.A./C.A./No. ————— in —————

T.A. No. ————— (W.P. No.)

D.A. No. 220/90

Admitted and Interim
directions issued.

Allowed.

Dismissed for default.

Dismissed.

Disposed of with direction.

M.A. ordered.

No order as to costs.

Sent to Xerox on:

