

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.NO. 305 of 1990

Date of Order: 26/04/1990

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N.Mallappa

..Applicant

Versus

1. Union of India,
rep. by the Director of Postal Services,
Kurnool district.
2. Superintendent of Post Offices,
Hindupur division,
Hindupur, Anantapur district.
3. S.Pape Gowd,
Teacher, R/o Beechaganipalli,
Anantapur district

..Respondents

..

For Applicant:

Mr.D.Srinivas
A.Prabhakar Sarma,
Advocates

For Respondents:

1 and 2:

Mr. Naram Bhaskara Rao,
Addl.CGSC.

For Respondent No.3:

Not present in person or
through Advocate.

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER(JUDICIAL)

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(Judgment delivered by Hon'ble Shri D.Surya Rao, Member(J)

1. The applicant herein who is working as Provisional Branch Post Master, Beechganipalli, has filed this application for a direction that his services should not be terminated and to consider his case for regular appointment to the post of Branch Post Master.

2. The facts giving rise to this application are

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briefly stated as follows:

The applicant states that the 3rd respondent is a regular Branch Post Master of Beechiganipalli who was also working as a School teacher. In the year 1984, the said 3rd respondent was transferred from Beechiganipalli to Tirumala Devarapalli as a teacher. Consequent on this transfer, the 2nd respondent by his letter dated 30-9-1985 directed the 3rd respondent to tender his resignation to the post of Branch Post Master within three days. Thereafter by another letter dated 8-1-1986, the 3rd respondent was directed by 2nd respondent to submit his resignation within a week. On his failure to do so, the 2nd respondent issued a charge memo dated 16-12-1985 for disobedience of order. After enquiry, the 2nd respondent by an order dated 28-11-1986 removed the 3rd respondent. Thereupon, the 3rd respondent filed O.A.No.706 of 1987 in this Tribunal questioning the order of removal. This Tribunal by a judgment dated 9-2-1990 allowed the OA on a technical ground that the charge was not properly framed and had directed reinstatement of the 3rd respondent with consequential benefits. The applicant states that consequent to the removal of the 3rd respondent, by an order dated 15/21-9-1987, he was appointed provisionally as Branch Post Master, Beechaganipalli and he is continuing till today as BPM. He contends that the 3rd respondent consequent on his transfer was not able to discharge his duties as BPM properly. He contends that instructions

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Had been issued stating that where the working hours of the Post Offices and that of the schools clash, they should be started to resign from either of the posts and if they fail to do so they should be removed from service after following the prescribed procedure. He, therefore, contends that there was no illegality in the action taken against the 3rd respondent for removing him from service. He further contends that the applicant in O.A.No.706 of 1987 i.e. the 3rd respondent herein had only questioned the original order of removal dated 28-11-1986 and not the final order in appeal which was dismissed on 30-6-1987. It is, therefore, contended that the respondent no.3 is not entitled to the relief granted under O.A.No. 706/87. Consequently, he prays for a direction that his services should not be terminated and the respondents should be directed to consider him for regular appointment to the post of BPM, Beechaganipalli.

3. We have heard the learned counsel for the applicant.

4. To consider the grounds urged by the applicant herein, we should first mention here that the respondent no.3 (applicant in O.A.No.706 of 1987) was a regularly appointed Branch Post Master. In O.A.No.706 of 1987 we set-aside the orders passed by the Department terminating ^{his} ~~the~~ services on the ground that the charge is not related to failure of the applicant to comply with the orders issued in order dt.28-11-1986 viz., to submit his resignation letter and it should not form the basis for termination. We have perused the original

To:

1. The Director of postal services, (Union of India)
Kurnool district.
2. The Superintendent of post offices, Hindupur division,
Hindupur, Anantapur district.
3. One copy to Mr. D. Srinivas, Advocate, 2-2-3/1/1,
Shivam Road, Hyderabad-500 044.
4. One copy to Mr. N. Bhaskara Rao, Addl. CGSC, CAT, Hyderabad
for RR 1 & 2.
5. One spare copy.

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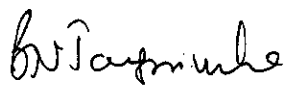
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In O.A.No.706/87 records and find that the applicant/had questioned not only the order of the disciplinary authority but also that of the appellate authority. The fact that the order of the disciplinary authority only was set-aside would not render the judgment ineffective. The status of the applicant herein is that of a provisional appointee consequent to the termination of a regular appointee. He cannot, therefore, have a claim to continue in that post when the order of removal of the regular appointee has been set-aside in O.A.No.706 of 1987. If the regular appointee i.e. respondent no.3 herein is removed after a due enquiry and if the procedure for filling up the post has been followed in accordance with the rules, the right of the applicant will accrue only at that time. At present the applicant has no locus standi to question the order passed in O.A.No.706/1987 in favour of 3rd respondent. In the result, we find no merit in the application and it is dismissed. No costs.

(Dictated in open court)



(B.N.JAYASIMHA)
Vice Chairman

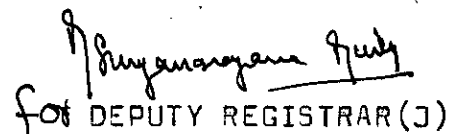


(D.SURYA RAO)
Member (Judl.)

Dt.26th April, 1990

SQH*

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for DEPUTY REGISTRAR (J)

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CHECKED BY

TYPED BY:

COMPARED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBU-
NAL:HYDERABAD BENCH:HYD.

HON'BLE MR.B.N.JAYASIMHA: V.C. ✓

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: 26-4-90 ✓

ORDER/JUDGMENT:

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

T.A.No. W.P.No.

O.A.No. 305/90 ✓

~~Admitted and Interim directions
issued.~~

~~Allowed.~~

~~Dismissed for default.~~

~~Dismissed. No Cost~~ ✓

~~Disposed of with direction.~~

~~M.A. ordered.~~

~~No order as to costs.~~

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