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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.404/90

DATE OF JUDGEMENT: 5-10- 1993

Between

E. Ramulu

.. Applicant

and

1. Union of India represented by
Secretary,
Min. of Communications,
New Delhi
2. Superintendent of Post Offices
Nalgonda Division
Nalgonda 508 001
3. R.V.Ramana Rao
Sub-Divisional Inspector (Postal)
Nalagonda South Sub Division
Nalagonda 508 001.

Counsel for the Applicant

:: Mr T. Jayant for
T. Jayant.

Counsel for the Respondents

:: Mr NV Ramana, Addl.
CGSC

CORAM:

HON'BLE SHRI A.B. GORTHI, MEMBER(ADMN)

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

JUDGEMENT

{As per Hon'ble Shri T. Chandrasekhara Reddy, Member(Judl.)}

This application is filed under Section 19 of the Central Administrative Tribunals Act to set aside the orders of removal passed as against the applicant on 8.2.89 by the 3rd respondent that was confirmed by the 2nd respondent as per his orders dated 9.6.89, and reinstate the applicant into service with all consequential benefits and pass such other orders as may deem fit and proper in the circumstances of the case.

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2. The facts giving rise to this OA in brief, may be stated as follows:

3. The applicant herein was initially appointed as Extra Departmental Mail Carrier (EDMC), Anthampet Post Office on provisional basis for a period of 90 days w.e.f. 26.4.1980. A notice was issued on 13.6.1980 by the Inspector of Postoffices, Nalgonda West calling for the applications for filling up the said post on regular basis. The applicant also applied for the said post. The applicant along with his application had submitted a xerox copy of TC No.68 dated 23.4.1979 purported to have been issued by the ^{Head master} Primary School, Anthampet. The applicant had also produced a residential certificate dated 15.5.1979 showing the residence of the applicant as Khudabakashaplli village. The date of birth of the applicant had been shown as 4.5.1957 in the xerox copy of the TC No.68 that was filed by the applicant. Accepting the said certificate, the competent authority appointed the applicant ^{to} ~~xxx~~ the post of Extra Departmental Mail Carrier.

4. On receipt of certain complaints by the respondents, an enquiry was ordered by the competent authority with regard to the nativity of the applicant and also with regard to the authenticity of the educational and date of birth certificate as there was a prime facie case as against the applicant that required to be looked into. As the allegations as against the applicant were confirmed, the applicant was put off duty as per orders of the respondents dated 21.8.1987 passed by the competent authority.

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A charge sheet was issued ~~on~~^{against} the applicant on 20.9.1987, alleging that the applicant had given wrong information regarding ~~residence~~^{nativity} by producing false residential certificate and that, he had also submitted bogus certificate with regard to the date of birth, educational qualifications in securing the said appointment as EDMC, Anthampet Post Office.

5. The Disciplinary authority appointed one Mr RV Ramana Rao Sub Divisional Inspector of Post Offices, Nalgonda as Enquiry Officer. The said Sri Ramana Rao conducted part of the enquiry as against the applicant on 18.1.88, 26.2.88 and 2.4.88, ^{and removed from service}. Subsequently, the said Sri Ramana Rao became the disciplinary authority of the applicant. So, the said Sri Ramana Rao, who became the Disciplinary ^{authority} of the applicant appointed one Sri B. Balarama Krishna Rao, SDI(P) Nalgonda (North) as Inquiry Officer to continue the inquiry.
6. The said Sri Balarama Krishna Rao, the Enquiry officer completed his inquiry and submitted his report to the Disciplinary authority of the applicant Sri Ramana Rao. The Disciplinary authority accepted the findings of the Enquiry Officer and passed orders dated 8.2.89 imposing the penalty of removal from service on the applicant. The applicant preferred an appeal on 10.4.89 and the appellate authority rejected his appeal on 9.6.89. So, the present OA is filed for the relief(s) as already indicated above.
7. Counter is filed by the respondents opposing this OA.
8. In the counter filed by the respondents, it is maintained that, for valid reasons, the applicant had been removed from

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service and there are no grounds at all to interfere with the orders of removal passed as against the applicant by the competent authority.

9. We have heard Mr TVSN Murthy for Mr T. Jayant Counsel for the applicant and Mr NV Ramana, Standing Counsel for the respondents.

10. ~~As already pointed out,~~ the charges as against the applicant are as follows:

Article I: That the said Sri Eski la Ramulu, EDMC (put off duty), Anthampet, B.O a/w Marriguda SO at the time of appointment as EDMC Anthampet has furnished in correct information regarding his residence by producing residential certificate and also furnishing false declaration and thus secured appointment as EDMC, Anthampet B.O. a/w Marriguda SO and thereby failed to maintain absolute integrity as required of him in Rule 17 of EDAS (Conduct and Service) Rules, 1964.

Article II: That the said Sri Eskilla Ramulu, EDMC (put off duty) has submitted bogus certificate showing date of birth and education qualification and thereby secured appointment of EDMC, Anthampet by furnishing false information and thus contravened Rule 17 of P&T EDAS (Conduct and Service) Rules, 1964.

~~As already pointed out,~~ so far the first charge is concerned the applicant had admitted the said charge before the Enquiry Officer on 18.1.1988. We had ~~also~~ ^{already} indicated that the first Enquiry Officer, subsequently became the Disciplinary authority of ~~xxxx~~ the applicant by virtue of his promotion and consequently, another Enquiry Officer by name Sri Balarama Krishna Rao, was appointed as Enquiry Officer, to inquire into the charges as against the applicant. The second Enquiry Officer had conducted the inquiry on 29.8.1988, 19.1.1989 and 6.2.89. The applicant had submitted Medical ~~xxxx~~ Certificate on 29.8.88 for ~~the~~ adjournment. The case was adjourned. Again the case came up on 19.1.89. The applicant again submitted a Medical certificate for

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adjournment. The enquiry was accordingly adjourned. Again on 6.2.89 when the case came up finally for enquiry ~~was~~, the applicant had not attended the said enquiry. The applicant had again submitted medical certificate obtained from ^a Private Practitioner on 6.2.89. In view of the conduct of the applicant seeking frequent adjournments on medical grounds the enquiry officer was not prepared to accept the Medical certificate produced before him on 6.2.89, as the same was allegedly issued by a Private Medical Practitioner. The enquiry officer after recording the same, had finally decided to hold the enquiry on 6.2.1989 on which the date, the applicant had failed to attend the enquiry. So, on 6.2.89, the presenting officer presented his case and on the basis of evidence that had already been recorded, the Enquiry officer submitted his report to the Disciplinary authority which as already pointed out, was accepted. So, as the applicant had not co-operated with the Enquiry Officer and had been seeking adjournments and on 6.2.89 as the applicant absented himself when the enquiry was closed, it is not open for the applicant to contend that the applicant had been denied ^{reasonable} ~~responsi-~~ ~~ble~~ opportunity. The applicant had every opportunity to participate in the enquiry and make his submissions. Admittedly, the applicant had not availed this opportunity. During the course of inquiry, the first Enquiry Officer namely Sri Ramana Rao (who subsequently became the disciplinary authority) had examined PW1-PW3. PW1 is Sri V. Buggaiah, Headmaster, Primary School, Anthampet, is a dis-interested witness. He does not have any axe to grind against the applicant. After going through his evidence, we are satisfied that he has given a truthful account that the applicant had not studied at all in his school and no TC was issued in the name of the applicant on the basis of the school

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records. So, the TC produced by the applicant with regard to his educational qualification and date of birth was certainly a bogus one. So, in view of this position, we do not find the action of the respondents in removing the applicant from service is bad in law, as there is ample material to hold that the second charge as against the applicant had been duly proved. As already pointed out, the applicant had admitted his first charge. So, as both the charges had been duly proved, the Disciplinary authority was justified in taking a serious view in the matter and removing the applicant from service. In the circumstances of the case, the action of the appellate authority in confirming the orders of the disciplinary authority as against the applicant is also valid. So we see no merits in this case and there is no other alternative except to dismiss this OA.

11. One of the contentions raised by the learned counsel for the applicant is that the Enquiry Officer who became the disciplinary authority of the applicant, had passed the orders of dismissal as against the applicant and so the entire disciplinary proceedings are vitiated and the order of removal is liable to be set aside. The said enquiry officer, before becoming Disciplinary authority had not expressed any opinion in the matter. There is nothing to show that the said Ramana Rao had any bias while conducting the enquiry as against the applicant on the said three days namely 18.1.88, 26.2.88 and 2.4.88, and in recording the evidences of PW1 to PW3. In view of the facts and circumstances of the case, absolutely, no bias can be inferred from any quarters as the facts ^{themselves} ~~itself~~ prove in this case that the applicant is guilty of serious mis-conduct in producing bogus and false certificates at the time of his appointment with regard to the educational qualifications, date of birth

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For the Government of India
Secretary, Government of India
New Delhi

To

1. The Secretary, Union of India, Min. of Communications, New Delhi.
2. The Superintendent of Post Offices, Nalgonda Division, Nalgonda-1.
3. One copy to Mr. T. Jayant, Advocate, CAT. Hyd.
4. One copy to Mr. N. V. Ramana, Addl. OGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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and nativity. The fact that the orders of removal passed by the Disciplinary authority, who acted as Enquiry Officer at certain stage in the enquiry, in our opinion, did not vitiate the disciplinary proceedings.

12. The learned counsel for the applicant relied on a decision reported in 1974(1) SLR Page 67 Abdul Aziz Khan Vs Union of India wherein it was held that a Government servant getting employment by deceitful means is not guilty of misconduct as deceitful act was not done during the course of performance of his duties. In AIR 1958 SC 419 KS Srinivasan Vs Union of India it is held that appointment, if not validly made by competent authority, the same does not confer any right on the incumbent to hold the post. So as the applicant had obtained the job in this case by producing false certificate, the appointment of ~~one~~ ^{the} applicant to the said post is invalid and void and termination cannot be said to be ^{by way} ~~an act~~ of punishment. So in view of the ^{Supreme Court} ~~above~~ decision, the ^{application} ~~stand~~ decision reported in 1974(1) SLR Page 67 has no ~~stand~~ ^{to the facts of} ~~before~~ this case.

13. We see no merits in this OA and hence, this OA is liable to be dismissed and is accordingly dismissed leaving the Parties to bear their own costs.

(T. CHANDRASEKHARA REDDY)
Member (Judl.)

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

Dated: 5-12-1993

mvl/ad

Deputy Registrar

7th 2nd 1993

TYPED BY

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. A. B. GORTHI : MEMBER (A)

AND

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

AND

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

Dated: 5-10-1993

ORDER/JUDGMENT:

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

in

O.A.No. 404/90

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.

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