

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

55

O.A.932/90

Date of Order:7.9.93

M.Subba Rao

.. Applicant

Vs.

1. Director General,
Department of Posts
Govt. of India,
New Delhi - 110 001.
2. Director of Postal Services,
Office of the Post-Master General
Hyderabad Region,
Hyderabad - 507 001.
3. Supdt. of Post Offices,
Khammam Divisions,
Khammam - 507 003.

.. Respondents

Counsel for the Applicant : Mr.T.P.V.Subbarayudu

Counsel for the Respondents : Mr. E. Madanmohan Rao

N.R. Devaraj
CGSE

CORAM:

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

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

3009

(56)

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

The applicant was working as Branch Post Master, Ravigudam during 1987-88. He was served with a charge memo on 1.6.88. The allegations were that he dishonestly misappropriated Rs.180/- on account of M.O.No.4283/30, dt.25.2.87 and another sum of Rs.180/- on account of M.O. No.3972/26, dt.13.2.88. A departmental enquiry was initiated on the conclusion of which the Inquiry Officer found that both the charges against the applicant were not proved. Disagreeing with the findings of the Inquiry Officer the disciplinary authority found the applicant guilty of both the charges and awarded the penalty of removal from service vide his order dt.24.1.90. The applicant's appeal was duly considered by the applied authority, but was rejected by means of reasoned order.

2. The short question that is involved in this case is whether the disciplinary authority was justified in disagreeing with the findings of the Inquiry Officer without giving prior notice to the applicant. This aspect of the case was considered by the ^{appellate} ~~applied~~ authority in his order dt.17.7.90. He came to the conclusion that even if the disciplinary authority had not informed the applicant regarding the disagreement with the Inquiry Officer, it would not make any difference to the merits of the case because there is no rule requiring ~~that~~ the disciplinary authority to indicate the fact of his disagreement ^{with} of the findings of the Inquiry Officer to the Government servant before passing final order.

3. We have heard Sri NR Devraj, counsel ^{for} the Respondents.

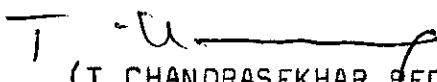
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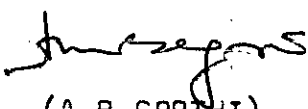
The Respondents in their counter affidavit have not given any satisfactory explanation with regard to the contention raised by the applicant that the disciplinary authority should have given^a prior notice to the applicant before disagreeing with the Inquiry Officer. (57)

3. In the case of Narayan Misra Vs. State of Orissa 1969 SLR (3)⁶⁵⁷, the Hon'ble Supreme Court held that where the disciplinary authority does not agree with the recommendation of the Inquiry Officer exonerating the employee, the disciplinary authority should give an opportunity to the employee before punishing him. Omission to do so would be against the principles of fair play and natural justice.

4. In view of the above, we allow the application and set aside the impugned orders dt.21.1.90 and 17.7.92. The respondents may now issue a proper notice to the applicant indicating the fact of disagreement with ~~the~~ the Inquiry Officer's findings. Further, action in the matter can be taken by the competent authority after considering the explanation if any offered by the applicant.

5. DA is allowed to the extent indicated above without any order as to costs.


(T.CHANDRASEKHAR REDDY)
Member (Judl.)


(A.B.GORTHY)
Member (Admn.)

Date: 7th September, 1993
Dictated in Open Court.


Deputy Registrar

- To
1. The Director General, Dept.of Posts, G.O.I.New Delhi-1.
 2. The Director of Postal Services, O/o the Postmaster General, Hyderabad Region, Hyderabad-1.
 3. The Superintendent of Post Offices, Khammam Divisions, Khammam-3.
 4. One copy to Mr.T.P.V.Subbarayudu, Advocate, B16, F5 Krupa Anand Apartments, Anandbagh, Safilguda, Hyd.
 5. One copy to Mr.N.R.Devraj, Sr. OGSC.CAT.Hyd.
 6. One copy to Library, CAT.Hyd.
 7. One spare copy.

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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: 7-9-1993

ORDER/JUDGMENT:

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

in

O.A.No. 932/90

T.A.No.

(W.P.)

Admitted and Interim directions
issued

Allowed

Disposed of with directions

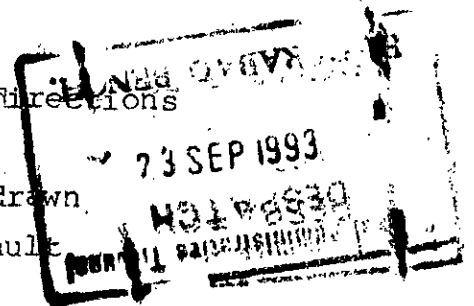
Dismissed

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs.



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7.9/93