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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

D.A.No.77/90.

Date of Judgment:25-6-90.

V.Raghu Rami Reddy

....Applicant

Vs.

1. The Union of India,
Represented by the Director
General of Posts,
New Delhi - 110 001.
2. The Chief Post Master General,
Andhra Circle, Abids,
Hyderabad - 500 001.
3. The Director of Postal Services,
A.P.Southern Region,
Kurnool - 518 005

....Respondents

Counsel for the Applicant : J.V.Lakshmana Rao

Counsel for the Respondents : Mr. E. Madan Mohan Rao

CORAM:

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

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

(Judgment of the Bench dictated by Hon'ble
Shri D.Surya Rao, Member (J)).

The applicant herein is working as Ex-LSG
Sorting Assistant in the Postal Department. On
20-5-88 he was issued a charge memo comprising five
articles of charges, which reads as follows :-

- 1) He tampered the parcel bag and INS
bag from Tatlam RMS dt.15-10-86 and
attempted to abstract the contents
from the insured parcels while on duty..

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- 2) He had not reported the broken condition of seals and torn condition of outer and inner canvas bags in respect of parcel bag No. 2 closed by Ratlam RMS Dt. 15.10.86 in the Rough note book.
- 3) He failed to maintain rough note book as required in the rules.
- 4) He left the Headquarters on 20-10-86 without permission.
- 5) He misbehaved with his superiors on 20-10-1986.

Earlier to the issuance of the charge-sheet, he was kept under suspension with effect from 20-10-1986. The Enquiry Officer submitted his report holding that the charges 1 to 3 are proved and charge 4 not proved ^{while} charge 5 is partly proved. ~~The~~ The Disciplinary Authority there upon by its order dated 28-4-1989 imposed ^{upon him} the punishment of dismissal from service. Applicant submitted an appeal on 5-6-89 to the appellate authority. This was followed by another appeal dt. 24-10-89. The appeal was disposed of on 8-1-90. These orders passed by the Disciplinary Authority and the Appellate Authority ^{are} sought to be questioned in this application. Various ^{grounds} reasons have been put forth for questioning the said order of dismissal ~~dt. 8-4-98~~ dated 28-4-89 as confirmed by the appellate authority's order dt. 8-1-90.

2. On behalf of the respondents a reply has been

contd..3.

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filed denying the various contentions made by the applicant. It is contended that the respondents have conducted the enquiry according to the procedure prescribed under rules, and that there are no infirmities in regard to the order of the Disciplinary Authority or Appellate Authority.

3. We have heard the learned counsel for the applicant Sri J.V.Lakshmana Rao and Sri E.Madan Mohan Rao, Standing Counsel for the respondents. Apart from the various contentions raised in the application, Sri Lakshman Rao contends that the application may be disposed of on a single contention viz., that the applicant was not given reasonable opportunity in that he was not furnished with a copy of the Enquiry Officer's Report before the Disciplinary Authority passed the final order on 28-4-89 removing the applicant from service. He contends that the principles of natural justice are violated by not furnishing him a copy of the Enquiry Officers report before passing the final orders. In support of this contention he relies upon the Full Bench decision of the Tribunal (Bombay Bench) rendered in the case of Premnath K.Sharma Vs. Union of India (1988 (6) ATC 904) wherein it was held as follows :-

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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

Admittedly, in the instant case, the Enquiry Officer's report has been given to the applicant only ~~on~~ ~~much~~ after the order of punishment is passed. Following

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the aforesaid decision in Premnath K. Shamma's case, we hold that the order of punishment No. St. 11/LSG/D/VRR dated 28-4-1989 ~~is~~^{order} quashed. This, however, will not preclude the respondents from further proceeding with the enquiry by enabling the applicant to make his representation against the Enquiry Officer's report and to complete the disciplinary proceedings from that stage. Since, in this case, the applicant has received a copy of the Enquiry Officer's report it would be unnecessary to direct the respondents to once again furnish a copy of the Enquiry Officer's report. If the respondents choose to continue the disciplinary proceedings, they are directed to intimate the applicant accordingly and to give him an opportunity to assail the correctness of the Enquiry Officer's report. They are directed to do so within one month from the date of receipt of this order. On receipt of such notice from the respondents, the applicant is directed to submit his representation against the Enquiry Officer's report within a period of one month thereafter and the disciplinary authority is further directed to dispose of the representation of the applicant within six weeks of the receipt of the same. As observed in the case

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decided by the Full Bench, nothing said herein would affect the decision of the disciplinary authority and we would hasten to add that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceedings. That is entirely left to the discretion of the disciplinary authority. If the respondents choose to continue the disciplinary proceedings and complete the same, the ^a manner as to how the period spent in the proceedings should be treated would depend upon the ultimate result.

5. Accordingly the application is allowed to the extent indicated above, but in the circumstances of the case, we make no order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice-Chairman

D. Surya Rao
(D. SURYA RAO)
Member (J)

Dated : 25th June, 1990.
Dictated in Open Court.

S. Suryanarayana
DEPUTY REGISTRAR (JUDL) 23/6/90

avl/

To

1. The Director General of Posts, Union of India, New Delhi.
2. The Chief Post Master General, Andhra Circle, Abids, Hyd-1.
3. The Director of Postal Services, A.P. Southern Region, Kurnool-5
4. One copy to Mr. J.v. Lakshmana Rao, Advocate.
Flat No. 301, Balaji Towers, New Bakaram, Hyderabad.
5. One copy to Mr. E. Madanmohan Rao, Addl. CGSC. CAT. Hyd. Bench.
6. One spare copy.

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COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA:V.C.

AND

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

AND

THE HON'BLE MR.J.NARASIMAHAMURTHY:M(J)

AND

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

DATE : 25/6/90

ORDER / JUDGMENT

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

in

T.A.No.

W.P.No.

D.A.No. 77/90

~~Admitted and Interim directions issued.~~

Allowed. ✓

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A.ordered/Rejected.

No order as to costs.

