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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 73/91
T.A.No.

Date of Decision : 27.2.1991

K. Janardhana Rao

Petitioner.

Sri TPV Subbarayudu

Advocate for the
petitioner (s)

Versus

The Secretary, Dept. of Posts,
New Delhi and 2 others

Respondent.

Sri N. Bhaskara Rao, Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. B.N. JAYASIMHA, VC

THE HON'BLE MR. ~~XXXXXX~~ J. NARASIMHA MURTHY, MEMBER (JUDICIAL)

1. Whether Reporters of local papers may be allowed to see the Judgement? *no*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal? *no*
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)

[Signature]
(HBNJ)

[Signature]
(HJNM)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT : HYDERABAD

O.A. No.73/91

Date of order: 27.2.1991

Between

K. Janardhan Rao

.. Applicant

Vs.

union of India Rep. by

1. The Secretary,
Dept. of Posts, Govt.
of India, New Delhi.

2. Director of Postal Services, o/o The Post Master General
Hyderabad Region,
Hyderabad.

3. Superintendent of Post Offices,
Nalgonda Division,
Nalgonda.

.. Respondents

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Appearance

For the applicant

: Sri T.P.V. Subbarayudu,
Advocate

For the respondents

: Sri Naram Bhaskara Rao,
Addl. Standing Counsel for
Central Govt.

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Coram

THE HON'BLE SHRI B.N. JAYASIMHA, VICE CHAIRMAN

THE HON'BLE SHRI J. NARASIMHA MURTHY, MEMBER (JUDICIAL)

7/2/91
db

(Judgement of the Bench delivered by Shri B.N.Jayasimha)
Hon'ble Vice Chairman

The applicant herein an L.S.G. Postal Asst. has filed this O.A. aggrieved by the order issued by the Supdt. of Post Offices, Nalgonda Division, Nalgonda in his Memo No.F7-4-/87-88 dt.26.6.1990 retiring him compulsorily from service w.e.f., 27.6.'90 and the order of the Director of Postal Services, Hyderabad in MemoNo. RDH/ST/21-3/31/90 dt. 26.11.1990, remitting the case back to the Supdt. of Post Offices, Nalgonda.

2. The applicant states that he was appointed as Time Scale Clerk in the Postal Department w.e.f., 23.1.1957 and was promoted as Time Bound L.S.G. Postal Asst. from 5.3.84. While working as L.S.G., Postal Asst. at Nalgonda Head Post Office, a charge memo under rule 14 of the CCS (CCA) Rules, 1965 was issued in memo No.F7-4/87-88 dt.3.5.1989. The applicant denied the charges and the disciplinary authority appointed an Enquiry Officer. The Enquiry Officer submitted his report dt.30.3.'90 and a copy of the Enquiry Officer's Report was also given to the applicant for making a representation. After considering the representation the Supdt. of Post Offices, Nalgonda had passed the impugned order dt. 27.6.1990. The applicant thereafter submitted an appeal dt.24.7.'90 to the Director of Postal Services contending among other things that the Supdt. of Post Offices, Nalgonda is not competent to pass the impugned order as he is not the appointing authority. He contends that the appellate authority remitted the case back under Rule 14 (21)(a) of CCS (CCA) Rules, 1965 to impose a major penalty. The applicant contends that the appellate authority had no power to punish the applicant with a major penalty as he is already suffering

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from that punishment unless the appellate authority set aside the punishment imposed by the incompetent authority. The appellate authority has to set aside the order of the Superintendent of Post Offices, But instead of setting aside the wrongful order he has assumed non-existent powers by way of getting back the case under Rule 14 (21) (a) of CCS (CCA) Rules, 1965. The applicant is therefore has filed this application questioning the action of the disciplinary authority imposing the punishment of compulsory retirement passed by the Supdt. of Post Offices and the order of the appellate authority Director of Postal Services remitting the case back to the Supdt. of Post Offices.

3. We have heard Mr. T.P.V. Subba Rayudu, Counsel for the applicant and Shri Naram Bhaskara Rao, Addl. Standing Counsel for the respondents, who has taken notice. In so far as the order dt.26.6.'90, the respondents have not denied that the 3rd respondent is not competent to impose upon the applicant the punishment of compulsory retirement from service though he was competent to initiate the enquiry. It follows that the order dt.26.6.'90 is illegal and is liable to be set aside. In so far as the order dt.26.11.'90 passed by the Appellate Authority is concerned, it is clearly a non-speaking order as no reasons have been mentioned therein, as to why the matter has been remanded back to the 3rd respondent. The appellate order also does not state that the penalty imposed under the order dt.26.6.'90 has been set aside despite the 3rd respondent not being competent to impose the major punishment of compulsory retirement. In view of these infirmities, both the order of punishment dt.26.6.'90 and the appellate authorities order dt.26.11.'90 are set aside. The applicant who was compulsorily retired from service is directed to be

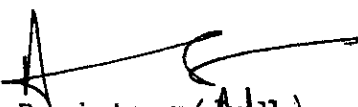
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reinstated to duty. This order passed by us however, will not preclude the competent disciplinary authority from ^{confirming} ~~considering~~ the disciplinary case against the applicant, on merits from the stage of setting aside the order of penalty imposed on the applicant and to pass appropriate orders according to law. With these directions the application is allowed. No order as to costs.


(B.N. JAYASIMHA)
VICE CHAIRMAN


(J. NARASIMHA MURTHY)
MEMBER (JUDICIAL)

Dt. 27th February, 1991
Dictated in the open court.


Deputy Registrar (Adml)

To

1. The Secretary, Dept. of Posts, Govt. of India, New Delhi.
Mys
2. The Director of Postal Services, Hyderabad Region, Hyderabad.
c/o the post master General
3. The Superintendent of Post Offices, Nalgonda Division, Nalgonda.
4. One copy to Mr. T.P.v. Subbarayudu, Advocate
B 16 F5 Krupa Anand Apartments, Safilguda, Anandabagh Hyd.
5. One copy to Mr. N. Bhaskar Rao, Addl. CGSC. CAT. Hyd. Bench.
6. One copy to Hon'ble Mr. J. Narasimha Murthy, Member (J) CAT. Hyd. Bench
7. One spare copy.

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(W) ~~Dr~~ ~~CA~~

CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

✓
THE HON'BLE MR.B.N.JAYASIMHA : V.C.

AND

THE HON'BLE MR.D.SURYA RAO : M(J)

AND

✓
THE HON'BLE MR.J.NARASIMHA MURTY:M(J)

AND

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

Dated: 27-2-1991.

~~ORDER~~ / JUDGMENT:

M.A./R.A. /C.A. NO.

in

T.A.No.

W.P.No.

C.A.No. 73/a)

Admitted and Interim directions
issued.

Allowed ✓

Disposed of with direction

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected.

No order as to costs.

Administrative
DEPARTMENT
13.02.1991
HYDERABAD BENCH.