

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD

OA 12/91.

Dt. of Order: 4-3-94.

BETWEEN :-

Ch. Yugandhar

...Applicant

And

Union of India rep. by :

1. The Secretary to Govt.,  
Department of Posts, New Delhi.
2. The Director of Postal Services,  
Office of Post Master General,  
Hyderabad Region, Hyd.
3. The Supdt., of Post Offices,  
Peddapalli Division, Peddapalli-  
505 172.

...Respondents

Counsel for the Applicant : Shri K.S.R. Anjaneyulu

Counsel for the Respondents : Shri N.R. Devraj, Sr. CGSC

CORAM:

THE HON'BLE JUSTICE SHRI V. NEELADRI RAO : VICE-CHAIRMAN

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

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O.A.NO.12/91.

JUDGMENT


DT: 4.3.94.

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri KSR Anjaneyulu, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. When the applicant was working as Assistant Post Master (APM), Peddapally, he had taken Rs.2530/- as advance amount on 15.1.1982 for visiting Srinagar by availing Leave Travel Concession (LTC) for the block period 1982-85. When he produced the advance receipt on 15.1.1982 of Shilpa Travels, Hyderabad for Rs.2000/-, the same was also granted as advance on 16.1.1982. The applicant preferred the claim for Rs.5958/- on 5.2.1982 for the journey <sup>period</sup> from 18.1.1982 to 3.2.1982. The receipt issued by Shilpa Travels, Hyderabad was enclosed to the said bill. The claim for the <sup>bus</sup> journey from Peddapally to Hyderabad was disallowed on the ground that the bus tickets were not produced. The applicant had given an undertaking that action may be taken against him if ultimately the bill claim is found to be false, and thereafter the bill was passed.

3. A charge memo dated 11.4.1984 was issued to the applicant and the charge therein is as under:-

"That the said Shri CH.Yugandhar,   
Postal Assistant, while functioning  
as APM Peddapalli HO from 1.1.82 had

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preferred wrongful LTC, T.A. claim for Rs. 5958/- on 5.2.82 by furnishing a forged document in support of such claim.

Thus the said Shri CH. Yugandhar has exhibited lack of integrity and acted in a manner unbecoming of a government servant violating Rule 3(1)(i) and 3(I)(iii) of CCS Conduct Rules, 1964."

to the charge memo

It is alleged inter-alia in Annexure-2 ie., the statement of imputations that the inquiries with the State transport authority, Hyderabad revealed that the permit No. 9/79 dated 15.10.1979 was not issued to the Vehicle No. ADM 5684, the bus in which the applicant was stated to have travelled from 18.1.1982 to 3.2.1982. The letter from the State Transport Authority in regard to the same was marked as Ex. P-12. The Inquiry Officer held that the charge is proved. The report of the Inquiry Officer was communicated to the applicant calling for his objection, if any, in regard to the same. After consideration of the Inquiry record, report of the Inquiry Officer, and the representation of the applicant against the report of the Inquiry Officer, the disciplinary authority passed order dated 29.5.1990 (vide Annexure-10) by imposing the punishment of lowering the pay of the applicant by one stage in the pay scale of Rs. 975-1660 for one year w.e.f. 1.6.1990 besides cancelling the LTC bill for Rs. 5,232/- which was conditionally accepted. In the said order, the disciplinary authority observed that he was in agreement

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with the Inquiry Officer in regard to the finding that the charge is proved. The appeal against the order dated 29.5.1990 was dismissed. This OA is filed challenging the said order dated 29.5.1990 as confirmed by the appellate authority.

4. The Inquiry Officer has relied upon the following documents to hold that the charge is proved.

- (1) Exhibit No. 12 from the State Transport Authority - that permit No. TVP 9/79 dated 15.11.83 was not issued to the vehicle No. ADM 5684, the vehicle in which the applicant was said to have travelled from 18.1.82 to 3.2.82.
- (2) Exhibit 13(a), a letter from the authority in Srinagar to the effect that the Road from Jammu to Srinagar was blocked for traffic on 21.1.82 and also from 24.1.82 to 7.2.82.

5. The disciplinary authority after referring to the said documents and also report of the Inquiry Officer, agreed with the said findings of the Inquiry officer.

6. But it is contended for the applicant that when no witness was cited for the department as per charge memo. and when no one was examined to speak in regard to the contents in Exhibit 12 and 13 (a), it is not open to the Inquiry Officer or the disciplinary authority to rely upon the same. Shri S. Subba Rao, the then ASPOs, Peddapalli, Shri R. Subrahmanyam, the then SPOs, Peddapalli and Shri B.R.N. Reddy, IPO(C), Hyderabad deposed on behalf of the applicant in the said enquiry and

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and they stated that they verified from the Shilpa Travels in regard to the permit produced by them and hence the enquiry authority or the disciplinary authority should not have preferred exhibits 12 and 13(a) when no one was examined in support of the same, ~~and in preference~~ to the evidence produced for the applicant. Further when the charge is to the effect that the applicant ~~chose~~ <sup>chose for</sup> ~~to produce false permit and~~ <sup>same</sup> ~~the~~ was not established and hence the applicant should have been ~~exonerated~~, <sup>urged the learned Counsel for applicant</sup>

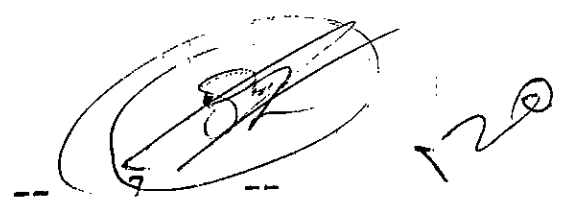
7. Shri A. Ramabramham, the then Head Clerk to SPOs, Peddapalli and Shri V. Balakrishna, the then IPO (C), Peddapalli division were called to identify Exhibit 12 and Exhibit 13 (a). Madras Bench of this Tribunal In 1991 16 AT 599 of it was observed that the documents referred to were not marked at all for testing the veracity of the contents therein. But in this case Exhibits 12 and 13(a) were marked <sup>through</sup> ~~to~~ Shri A. Ramabramham and Shri V. Balakrishna. Those documents <sup>over</sup> ~~or~~ letters are sent <sup>3rd respondent</sup> to the ~~authorities~~ <sup>by the office of the Government</sup> <sup>Department</sup>. The presumption can be raised on the basis of those documents, and it is open to the applicant to request the enquiry officer to summon the authorities ~~who~~ issued those letters if he felt that what was stated in exhibit 12 and 13 (a) are not correct. But the applicant has not made any such request.

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8. The question as to whether exhibits 12 and 13(a) are to be preferred to the oral evidence of the witness examined for the applicant i.e. Mr. J. Subba Rao, Mr. R. Subrahmanyam and Mr. B.R.N.Reddy<sup>who</sup> had spoken only after verifying from the Travel Agency, Shilpa Travels, is not a matter for consideration in proceedings under article 226 of the Constitution. When the enquiry authority and the disciplinary authority preferred exhibits 12 and 13(a), the letters sent by officers of the Government<sup>Department</sup> to the oral evidence on the basis of verification of records of private Agency, it cannot be held as perverse. In 1991 16 AT 599 of <sup>Madras Bench of the</sup> it was not <sup>Tribunal</sup> stated that it is not <sup>open to</sup> the enquiry officer/ disciplinary authority to rely upon the letters sent by the officers of the Government<sup>Department</sup> unless the concerned authority is summoned to prove the contents therein. Hence that judgement also does not support the applicant herein.

9. It may be noted that permit for operation of Motor vehicles is given only on payment of the tax. The necessary records will be maintained in the concerned office in regard to the payment of the tax and the issual of the permit. There will not be any possibility for tampering of such official records. There is no reason for the office of the concerned RTA to send Exhibit 12 , the letter to the effect

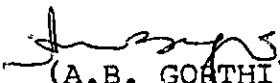
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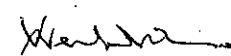


that permit No. TVP 9/79 dated 15.10.79 was not issued in regard to the vehicle No. ADM 5684. It cannot be stated that without proper verification of the records, the concerned office in Shrinagar had sent exhibit 13(a) to the effect that on the dates referred to, the road was blocked. Hence when the finding was given on the basis of the documents, it cannot be held that it is one of conjecture or <sup>surmise</sup> ~~so~~. Thus it is a case where there is some material on the basis of which the finding was given to the effect that the charge is proved. // It may be noted that the applicant produced a copy of the permit which was not issued to Vehicle No. ADM 5684 in which the applicant was reported to have travelled. It can be stated on the basis of exhibit 12 that the applicant has not travelled in the bus on the dates stated in the L.T.C. bill. Then it can be safely <sup>inferred</sup> ~~implied~~ that the applicant produced copy of the document knowing it to be not genuine. Hence it cannot be stated that the charge is not proved and the finding of the Inquiry officer is not correct. Hence ~~So~~ we do not find any reason to interfere with the finding given by the Inquiry officer which was accepted by the disciplinary authority and the appellate authority.

10. It is next argued for the applicant that the reduction of his pay by one stage in the pay scale besides cancelling the

the L.T.C. bill for Rs.5232/- would be a case of double jeopardy. But such contention was negatived by the full bench of Principal Bench in OA 770/87 . Hence this OA is dismissed. No costs.

  
(A.B. GORTHI)  
Member (A)

  
(V. Neeladri Rao)  
Vice-Chairman

Dated 4th March, 1994  
Open court dictation

NS

  
Deputy Registrar(Judl.)

Copy to:-

1. The Secretary to Govt., Department of Posts, Union of India, New Delhi.
2. The Director of Postal Services, O/O Post Master General, Hyderabad Region, Hyderabad.
3. The Supdt. of Post Offices, Peddapalli Division, Peddapalli-505172.
4. One copy to Sri. K.S.R.Anjaneyulu, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

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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. GORTHY : MEMBER (A)

AND

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

AND

THE HON'BLE MR. R. RAVARAJAN : MEMBER  
(ADMN)

Dated: 4/3/ -1994.

CAREER/JUDGMENT:                     

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

in

O.A.No.

12/91

T.A.No.

(W.P.No.                     )

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

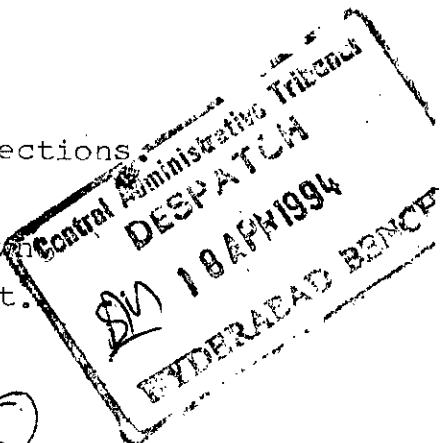
Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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