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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.271/91

Date of Order: 6.12.94

BETWEEN:

K.Kamaiah

.. Applicant.

A N D

1. Post Master General,
Andhra Circle,
Hyderabad.
2. Director of Postal Services,
A.P.Southern Range,
Kurnool.
3. Superintendent of Post Offices,
Tirupati Division,
Tirupati.

.. Respondents.

— — —

Counsel for the Applicant

.. Mr. P.Krishna Reddy

Counsel for the Respondents

.. Mr.N.R.Devraj

— — —

CORAM:

HON'BLE SHRI A.V.HARIDASAN : MEMBER (JUDL.)

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

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X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

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The applicant who was Extra Departmental Branch Post Master of Bugga Agraaharam was proceeded against under Rule 8 of the ED Agents Conduct and Service Rules for two specific articles of charge namely that he had received a sum of Rs.150/- from P.Muthaiah and having ~~issued~~ a manuscript receipt to him, did not bring this amount into any account and that, he having received Rs.10/- from Ramachandraiah along with the pass book failed to bring the amount in the SB account. The applicant denied the charges and an enquiry was held. On the basis of the evidence the enquiry officer found him guilty, which finding the disciplinary authority accepted and the disciplinary authority by his order dated 3.8.87 imposed on him a penalty of removal from service. An appeal preferred by the applicant was also dismissed by the order dt. 1.5.89. The applicant has filed this application assailing these orders and praying that the impugned orders may be set aside and the respondents be directed to reinstate him with all consequential benefits. It has been averred in the application that the entire charge against the applicant and the subsequent proceedings were engineered by his own paternal aunt's son who had enmity towards him and that the complainant Sri P.Muthaiah himself was a servant of the said cousin. The case of the applicant is that on the basis of the complaint engineered at the behest of his cousin the department got the enquiry held in violation of principles of natural justice without affording him reasonable opportunity

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and without giving him the requisite documents and without allowing one of the witnesses to be cross examined by the Assisting Government servant. According to the applicant the entire proceedings is vitiated, the finding unjustified and the orders of the appellate authority vitiated for want of application of mind. The respondents have filed their reply. The entire file relating to the disciplinary proceedings were also made available for our perusal by the respondents counsel. We have perused all the material papers and have heard at length the counsel for the applicant and Sri N.R.Devraj, learned standing counsel for the respondents.

2. The important points argued before us by the learned counsel for the applicant are that the enquiry is vitiated for non observation of principles of natural justice as some of the documents the applicant required for his defence were not supplied to him and as the PW III was not allowed to be cross examined properly in the presence of defence assistant and that the finding of guilt is based on no evidence at all.

3. The arguments that the applicant was denied reasonable opportunity to defend is found to be not correct on a scaning of the enquiry proceedings himself. The applicant had asked for a receipt alleged to have been sent by him to the Tirupathi Department and also reports of the verification in regard to all the SB account of the Branch Post Office. The enquiry authority did not accede to this request of the applicant for causing production of these documents mainly on the ground that these documents were of no relevance to the issue involved though he had also stated that the stage for calling for additional documents was over and that therefore the documents could not be supplied. The observation of the enquiry officer

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that the stage was over does not appear to be correct. If a government servant defending a charge requires any document it can be supplied at any stage. However, other ground on which the request was turned down cannot be said to be arbitrary. These documents which the applicant called for were not of relevance to the issue involved. The applicant had admitted that he issued a manuscript receipt of the pass book having Rs.15/- as balance, as payment of Rs.10/- to be credited in the S.B. account. The charge was that he did not return the pass book and credited the payment in the account. The relevant documents in respect of that ~~the~~ charge would be the SB register which was listed as an annexure in the memorandum of charge and was produced during the enquiry. The applicant has no case that he had brought this deposit into any account and if he had such a case the relevant documents be called for would be the registers concerning such deposits. Further ^{the} arguments that the PW III was not examined properly in the presence of ~~Assisting~~ government servant also is not correct because though the assisting government servant was not present when PW III who first examined the enquiry officer allowed the assistant government servant to crossexamine PW III later. Therefore we are ~~convinced~~ that the enquiry was held properly giving the applicant reasonable opportunity to defend himself.

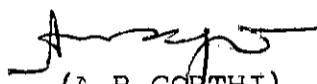
4. The ~~argument~~ that the finding that the applicant is guilty is not supported by evidence also has no merit. It is admitted by the applicant that he issued a manuscript receipt for Rs.150/- to Sri P.Muthaiah. If the applicant had not received the money he could not have issued the receipt. This amount of Rs.150/- was not brought into any account by the applicant. Hence the case that the pass book was not issued because Sri Muthaiah did not surrender the

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manuscript receipt also cannot be accepted because, the applicant should have after making the necessary entry in the records called upon the depositor to receive the pass book. Hence on a careful scrutiny of the evidence we are convinced that the disciplinary authority has found the applicant guilty as the ^{on the basis} facts of ~~are~~ convincing evidence. The finding therefore cannot be said to be perverse.

5. In the light of aforesated observations we do not find any merit in this case and we dismiss the OA without any order as to costs.



(A.B.GOPTHI)
Member (Admn.)



(A.V.HARIDASAN)
Member (Judl.)

Dated: 6th December, 1994

(Dictated in Open Court)

sd


Dy. Registrar (Judl.)

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1. Post Master General, Andhra Circle, Hyderabad.
2. Director of Postal Services, A.P.Southern Region, Kurnool.
3. Superintendent of Post Offices, Tirupati Division, Tirupathi.
4. One copy to Sri. P.Krishna Reddy, Advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
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In re

CAT Hyderabad

Hm No. 1711 Hansdara Jm

Hm No. 1712 Gormi Am

6/12/94

Decided

on

DA 271/91

On

Dismissed

No relief as to costs.

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