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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 23/91
T.A. No.

198

DATE OF DECISION 24 April, 1992

Sri N. Veeranna

Petitioner

Sri K.G. Kannabiran

Advocate for the Petitioner(s)

Versus

Member (P), Postal Services Respondent
Board, New Delhi

Sri N. Bhaskara Rao

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr.

T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-12 CAT/86-3-12-86-15,000

T. C. R.
(HTCR)
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.23/91

DATE OF JUDGEMENT: 24.4. APRIL, 1992

BETWEEN

Sri N. Veeranna

.. Applicant

and

1. Member(P)
Postal Services Board,
Dept. of Posts,
Min. of Communications,
Dak Bhavan, New Delhi.
2. Director of Postal Services,
AP, Northern Region,
Hyderabad-1.
3. Senior Superintendent of
Post Offices
Secunderabad Division
Secunderabad-25.
4. R. Subrahmanyam
Officer on Special Duty
Departmental Inquiries,
Postmaster General Office,
AP Circle, Hyderabad-1. .. Respondents

Counsel for the Applicant : Sri K.G.Kannabiran

Counsel for the Respondents : Sri N.Bhaskara Rao
Addl.CGSC

CORAM:

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

T - C. *[Signature]*

..2.

JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED BY
HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This is an application filed under Section 19 of the Administrative Tribunals Act, to set aside the impugned order No.1/190/89-Vig-III dated 30.11.89 passed by the 1st respondent modifying the order of the 2nd and 3rd respondents, is in reducing the penalty to that of reduction to the minimum of the time scale of pay for a period of 5 years with further direction that the applicant would not earn increment during the period of reduction, and to grant all consequential benefits with retrospective effect, as if no punishment has been imposed on the applicant and pass such other orders as may seem fit and proper in the circumstances of the case.

2. The facts giving rise to this OA in brief may be stated as follows:

3. The applicant joined the postal Department in the year 1964. His services were confirmed in the year 1986. The applicant was on Medical Leave for a period of 45 days from 6.9.1983 to 20.10.1983.

4. One Sri G.George, Postman, Secunderabad the HO was issued Rule 16 chargesheet by Competent Authority. an So, there was agitation by the Postmen for withdrawal of the charge sheet issued by the Department.

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During the said Postmen agitation in the Secunderabad HO from 26.9.83 to 28.9.1983 the applicant, who as already pointed out was on Medical leave is said to have exhorted the other postmen to raise slogans as against the superior officers working in the Postal Department and that, the applicant himself entered into the Post Office premises and raised slogans before the public counter thus disturbing the office work. Hence, a regular Departmental Enquiry was ordered as against the applicant for the applicant's participation in the said strike. A charge memo dated 15.11.1983 was served on the applicant which read as follows:

"Sri N. Veeranna, Postal Assistant, Seethapalmandi, S.O. after applying for leave on M.C. for 30 days w.e.f. 21.9.1983, actively participated in the Postmen's agitation in front of Secunderabad Head Post Office during the period from 26.9.1983 to 28.9.1983, exhorted the agitating Postmen to raise slogans in support of their demands, himself entered the Post Office premises and raised slogans before the counter disturbing the office work. Shri N. Veeranna is therefore, alleged to have violated the provisions of Rule 7(ii) of CCS (Conduct) Rules, 1964 and also behaved in a manner unbecoming of a Government servant thereby contravening the provisions of Rule 3(1)(iii) of CCS (Conduct) Rules, 1964".

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5. During the course of enquiry, Sri S.M. Haridass, Dy. Post Master, Secunderabad HO PW.1, Sri V.R. Pritiviraj, PA Sec'bad, HO, PW.2, Sri B.Achanna, PA, Sec'bad HO, PW.3 and Sri B.E. Viswanatham, APM, Sec'bad, HO, PW.4 were examined. On behalf of the Department, EX.P1 to P7 were marked.

6. One Sri T.R.Ramaratnam who was cited as a witness by the Disciplinary Authority was given up as he died on 11.9.1985.

7. On behalf of the Defence, Ex.D1 and Ex.D2 were marked.

8. Exhibits P1 to P3 were the statements that were recorded during the preliminary enquiry from PWs.1 to 3. Exhibit P4 was the report of the said Sri Ramaratnam who was a Postmaster, Sec'bad HO and ^{as} who, already pointed out died on 11.9.1985. Ex.P.5 is the statement of Sri B.E.Viswanatham, APM Sec'bad, HO, during Preliminary Enquiry. Ex.P.6 is the Medical certificate dated 21.9.1983 issued to the Applicant Sri N.Veeranna and Ex.P.7 is the application for leave of the Applicant Sri N.Veeranna dated 21.9.83. Ex.P.6 medical certificate is issued by one Dr.K. Rajeswara Rao of Seethapalmandi in favour of the applicant recommending leave for the applicant for a period of 30 days. Exhibits D.1 and D2 are the memos dated 27.9.83 and 26.10.83 issued by postmaster General, Secunderabad and Sr. Supdt. of Post Offices, Sec'bad Dvn respectively.

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9. The enquiry Officer as per his Report dated 9.6.1987, after considering ^{and} ^{and} the oral documentary evidence placed before him came to the conclusion that the article of charge as framed against the applicant was proved to the extent that the applicant applied for leave on medical grounds with medical certificate for 30 days w.e.f. 21.9.1983, actively participated in the Postmen's Agitation in front of the Secunderabad Head Post Office from 26.9.1983 to 28.9.1983. The said report was submitted to the disciplinary authority. The Disciplinary authority as per its order dated 31.8.1987 agreed with the findings of the Enquiry Officer and held that the applicant by his presence at the said Secunderabad Head Post Office during the said strike period from 26.9.83 to 28.9.83, actively participated and abetted the postmen who were under strike ^{and} So, that ^{and hence} was clear ~~w~~ violation of Rule 7(ii) of CCS (Conduct) Rules, 1964 ^{which enabled the} imposition ~~of~~ ^{on} the penalty of compulsory retirement on the applicant with immediate effect.

10. The applicant preferred an appeal against the orders of the Disciplinary Authority imposing the punishment of compulsory retirement. The Director of Postal Services, who is the Appellate Authority as per his order dated 25.8.1988 confirmed the punishment of compulsory retirement, ^{applicant} imposed on the ^{and} dismissed the ^{appeal} of the applicant.

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11. As against the order of the Appellate Authority, the applicant filed a Revision Petition before the Member(Postal) Postal Services Board, New Delhi. The Revising Authority as per its orders dated 30.11.1989 in exercise of the powers conferred by Rule 29 of the CCS (Conduct) Rules, 1965, modified the penalty of compulsory retirement to that of reduction to the minimum of the time scale of pay for a period of 5 years with further directions that the applicant would not earn increment during the period of reduction and that the reduction will not affect the post-pponing of future increments of the pay of the applicant. It is the said order passed by the Revising Authority, that is questioned modifying the penalty of compulsory retirement that was passed by the Disciplinary Authority and confirmed by the Appellate Authority, that is questioned in this OA as already indicated above.

12. As already pointed out, while narrating the facts giving rise to this OA, Rule 16 Charge Sheet had been issued on one Sri G. George, Postman, Secunderabad, HO. The postmen went on strike demanding withdrawal of the said charge sheet issued as against the said Sri George, Postman. The said charge sheet seems to have been withdrawn on 27.9.1983. So, it is the contention of the learned counsel appearing for the applicant that after the said charge sheet was withdrawn on 27.9.83, there was no need for the postmen or for the applicant to resort to any agitation and be on strike from 27.9.83 onwards. So the fact that there was strike

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by the postman from 26.9.83 to 28.9.83 cannot be accepted and so the participation of the applicant in the said strike cannot be believed. We have gone through the evidences, PWS 1 to 4 and other material available on record. The evidences of PWS 1 to 4 and documentary evidence that is available on record and the circumstances would clearly point out that there was agitation by the Postmen on the dates from 26.9.83 to 28.9.83 and the applicant was very much present in the Company of the said agitating postmen during the said period. So, in view of the overwhelming evidence that is available on record, we are not prepared to accept the said contention of the learned counsel that there was no strike during the said period from 26.9.83 to 28.9.83 and that the applicant had not participated in the said strike.

As already pointed out, the findings of the Enquiry Officer was accepted by the Disciplinary Authority and the order of the Disciplinary Authority was confirmed by the Appellate Authority and the Revising Authority had also accepted the findings of the Enquiry Officer as confirmed by the Disciplinary Authority and Appellate Authority. But the revising authority had only modified the punishment as it came to the opinion that the punishment imposed on the applicant was excessive. So, on a question of fact there are concurrent findings of the disciplinary authority, Appellate Authority and as accepted by the revising authority, of PWS 1 to 4 in this case. No doubt, it is argued that the applicant might have been innocently present among the striking postmen. But his presence as could be seen,

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appears to be not on account of innocence during the strike period among the agitating postmen. It is very ~~very~~ on record that the applicant was very much involved in the Union activities and that he was an important office bearer in the NPPTE Glass II Union. The applicant himself had revealed in his own written brief before the Enquiry Officer that he had conducted coaching classes for the postmen, Class IV, and ED staff with an abiding interest. It is therefore quite evident that the applicant had close association or was closely moving with Postmen, Class IV and ED staff. So, it is quite evident that there was nexus in between the applicant and agitating postmen and this nexus and attachment to the postmen seems to have been brought the applicant to the fore front during the strike period and made him actively participate in the said strike.

It is contended that there is no evidence to show that PWS.1 to 4 were on duty and present on the day of agitation, and therefore, the evidence cannot be accepted. Absolutely we see no motives for PWS.1 to 4 to give false evidence as against the applicant. The evidence of PWS.1 to 4 is natural and in our opinion their evidence is trustworthy and reliable and their evidence has been rightly accepted by the Enquiry Officer and also by the Appellate Authority.

In view of the over-whelming evidence and other circumstances and in view of the

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current findings of all the other authorities, as already referred to, it is not open for us to go into the merits of this case and re-appraise the entire evidences as ~~is~~ we are sitting in an appeal. The inferences drawn on facts by the Enquiry Authority and as confirmed by the Disciplinary and Appellate Authorities, are not open for agitation before this Tribunal. Nothing is brought out to our notice during the course of hearing this OA that there was failure on the part of the enquiring authority to record admissible or material evidence or had admitted inadmissible evidence which had influenced the impugned findings. We see no error as having been committed either on question of fact or in law, by the Enquiry Officer, Disciplinary Authority or the Appellate Authority or the Revising Authority.

So, that being the position, the orders issued by the Revising Authority which are impugned in this case are liable to be confirmed as we see no grounds at all to interfere ^{with} ~~in~~ the said order.

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It is the plea of the applicant that he had been singled out for disciplinary action by the respondents and this amounts to discrimination and offending of articles 14 and 16 of the Constitution of India. In this context, our attention is drawn to AIR 1984 SC 499 SC 1499 Sengara Singh and others Vs State of Punjab and Others.

It was the case where State of Punjab initiated the disciplinary action by dismissing about 1100 members of the Police Force on the ground that they had participated in an agitation which was impermissible under rules governing the discipline in the Police Force of the State of Punjab. Among the dismissed, a large number of personnel were reinstated. Those who were not reinstated approached the judicial forums and ultimately, the matter went to the Supreme Court. The Supreme Court in the said decision at Page 1500 has observed as follows:

"If the indiscipline of a large number of personnel amongst dismissed personnel could be condoned or overlooked and after withdrawing the criminal cases against them, they could be reinstated, there was no justification in treating the petitioners differently without pointing out how they were guilty of more serious misconduct or the degree of indiscipline in their case was higher than compared to those who were reinstated. On that conclusion, the treatment meted to the petitioner suffered from the vice of arbitrariness and Art 14 forbids any arbitrary action which would tantamount to denial of equality as guaranteed by Art.14."

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We have gone through the said decision. As seen from the facts of the Supreme Court case, the policemen who participated in the agitation were of one and the same cadre. In the same cadre, some were reinstated and some were not reinstated. The Supreme Court, hence, observed that there was discrimination in the cadre of those who had gone on strike. But, the facts of this case are entirely different ~~here~~. The applicant, as already pointed out is a Postal Assistant and not a Postman. It is only the cadre of postmen who were on strike and agitated for withdrawal of a charge sheet issued as against one Sri G. George another Postman. As already pointed out, the applicant does not belong to the cadre of postmen who agitated and went on strike in the said Secunderabad Head Office. The applicant belongs to a superior cadre. There is no material placed before us to show that like the applicant some other postal assistants had indulged in such strike and participated in the said agitation. So, the facts of this case are completely different and the law laid down in the said Supreme Court is not applicable to the facts of this case. Absolutely, we see no reason for the applicant to participate in the said strike. So, his participation in the said strike is certainly violative of Rule 7 (ii) of CCS (Conduct) Rules, 1964.

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So, we see no grounds to interfere with the said order of the Revising Authority. The punishment imposed on the applicant in the circumstances of the case, is not at all excessive. This OA is liable to be dismissed and is accordingly dismissed. In the circumstances of the case, the parties are directed to bear their own costs.

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(T.CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 24/4 April, 1992

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Deputy Registrar (Judl.)
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Copy to:-

1. Member(P) Postal Services Board, Department of posts, Ministry of Communications, Dak Bhavan, New Delhi.
2. Director of Postal Services, A.P. Northern Region, Hyderabad-1.
3. Senior Superintendent of Post Offices, Secunderabad Division, Secunderabad-25.
4. Sri. R.Subrahmanyam, Officer on Special Duty Departmental Inquiries, Postmaster General Office, A.P.Circle, Hyderabad-1.
5. One copy to Sri. K.G.Kannabiram, advocate, CAT, Hyd.
6. One copy to Sri. N.Bhaskara Rao, Addl. CGSC, CAT, Hyd
7. One spare copy.

Rsm/-

0.A.23/91

(3) TYPED BY

CHECKED BY

COMPARED BY

APPROVE BY

THE HON'BLE MR.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN

AND

THE HON'BLE MR. T. CHANDRASEKHAR RE
MEMBER (JUDGE)

AND

THE HON'BLE MR. C.J. ROY : MEMBER (JU

Dated: 24/4/1992.

ORDER / JUDGMENT

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

in

O.A. No. 23/91.

T.A. No. -

(W.P. No.)

Admitted and interim directions
issued

Disposed of with directions

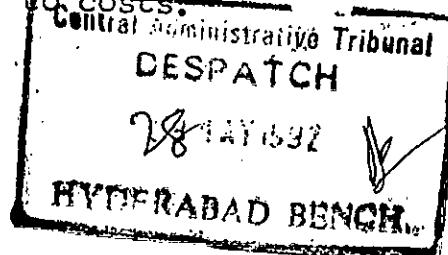
Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.



pvm.