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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::
AT HYDERABAD.

O.A.No.438/91.

Date: 3-3-1991

Between:

T. Rama Rao .. Applicant

And

1. Union of India, rep. by
Post Master General,
Andhra Pradesh, Hyderabad.
2. Senior Superintendent of
Post Offices, Srikakulam
Division, Srikakulam-1.
3. The Asst. Supdt. of Post Offices,
Srikakulam (West) Sub Division,
Srikakulam. .. Respondents

Counsel for the applicant : Sri Bharat Kumar, Advocate

Counsel for the respondents : Sri N.V.Ramana, Addl. CGSC

CORAM:

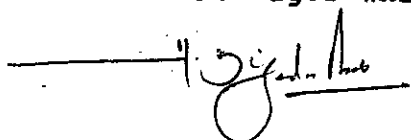
THE HON'BLE MR.T. CHANDRASEKHAR REDDY, MEMBER(JUDICIAL)

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER(ADMN.)

J U D G M E N T

{ as per Hon'ble Sri H.Rajendra Prasad, Member(Administrative) }

In this application Sri T.Rama Rao, formerly E.D.D.A., S.M.Puram in Srikakulam Postal Division, prays for a direction to the Post Master General, Hyderabad Region (Respondent No.1) to quash the orders of removal from service issued by the Assistant Superintendent of Post Offices, Srikakulam (West) Sub-Division, and to direct the Senior Superintendent of Post Offices, Srikakulam Division (Respondent No.2) to release the back-wages which, according to the applicant, he is entitled.



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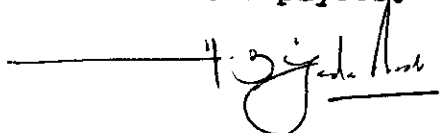
2. Briefly stated, the applicant, while functioning as E.D.D.A., S.M.Puram in Srikakulam Division, was proceeded Under Rule 8 of the P&T EDAs Conduct and Service Rules, 1964, on three charges relating to -

- (a) delayed payment of six (6) Money Orders,
- (b) failure to pay thirteen (13) Money orders, and
- (c) short payment in respect of one Money Order.

A regular departmental enquiry was held in which the applicant duly participated. A total of 22 and 4 witnesses were examined on behalf of the prosecution and the defence, respectively. Similarly, 49 documents were exhibited on behalf of the department as against three cited by the defendant. The Inquiry Officer held the charges proved. A copy of the Inquiry Report was duly supplied to the applicant before he was called upon to make his final submission/representation, if any. The applicant submitted a representation. Thereafter the disciplinary authority issued the impugned proceedings agreeing with the findings of the I.O. and ordered removal of the applicant from service. The applicant thereafter submitted an appeal to the Senior Superintendent of Post Offices against the said orders of removal. The appeal was rejected by the appellate authority. Hence this application.

3. The applicant bases his case on the following grounds:

- (1) Some of the prosecution witnesses, whose evidence was relied upon by the Inquiry Officer, were illiterate.
- (2) The alleged complaint about non-payment of Money Orders was actually prepared by a person other than the payees.



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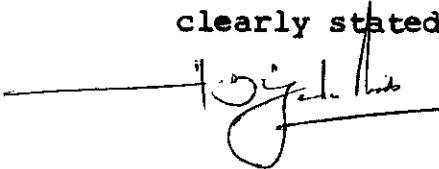
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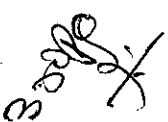
- (3) The payees were not even aware of the contents of the complaint.
- (4) There existed certain animosity between the person who had prepared the complaint (and another alleged accomplice of his) and the applicant.
- (5) The evidence tendered by one of the defence witnesses was totally disregarded by the Inquiry Officer as well as by the disciplinary authority.
- (6) The person who had actually prepared the complaint against the applicant was neither summoned nor examined by the Inquiry Officer.
- (7) Many of the prosecution witnesses later admitted that they had duly received the value of the Money Orders whereas, in the initial stages, they had denied such payments. The Inquiry Officer and the Disciplinary authority ignored the contradictory and shifting stand taken by those witnesses.
- (8) The statement of the applicant admitted his culpability was obtained under coercion and that this statement was then made the basis for holding him guilty on one of the charges.

4. The applicant finally submits that the order of his removal from service is based on mere suspicion and not on any solid or adequate evidence. The order, therefore, is bad in law and that the punishment of removal was also disproportionate to the offences with which he was charged.

5. The respondents mention in their counter-affidavit that the punishment imposed on the applicant is based wholly on oral and documentary evidence and that no extraneous considerations were allowed to intrude into the case. They deny that the complainants were unaware of the nature of the complaint; on the contrary, the complainants had clearly stated that the value of the Money Orders were paid

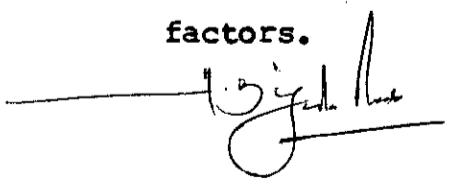


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after considerable delay by the applicant. The respondents also deny any knowledge of animosity between the applicant and some other villager(s) as alleged by him. In any case, this factor was not mentioned at all by the applicant during the entire course of enquiry and has been added as an afterthought. It is also stated on behalf of the respondents that the evidence tendered by the defence witnesses was fully taken into consideration by the disciplinary authority before arriving at a decision in the case. They refute the allegation that any statement was at all obtained from the applicant under duress or coercion. They finally submit that the nature of offences committed by the applicant betrays a gross lack of integrity and moral turpitude, inasmuch as the applicant, in his official capacity, was charged with the responsibility of properly handling the public funds entrusted to him and that he had failed to discharge the responsibility properly. The minimum penalty in cases of such nature is dismissal from service. However, considering all relevant circumstances, the respondents maintain, the disciplinary authority had actually decided to take a lenient view by imposing the penalty merely of removal from service. It is also pointed out that even though the applicant was duly provided an opportunity to submit a written brief on completion of the enquiry, he had failed to avail of the facility. The respondents, therefore, maintain that the application deserves to be disallowed in view of all these factors.



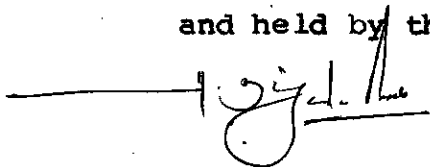
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6. We have carefully examined the records produced before us and noted all the arguments advanced on behalf of the contesting parties. This is an instance where a public servant, charged with the responsibility of serving the community with absolute honesty, is alleged to have betrayed the trust reposed in him inasmuch as he is said to have either not paid, or paid short, ^{value of the} the Money Orders received by him in his official capacity for disbursement to some villagers. It has been argued on behalf of the department that an employee, who thus betrays the public trust, deserves the severest of penalties; this is the accepted policy of the department. Nevertheless, the disciplinary authority, in exercising clemency towards the applicant, has actually stopped short of imposing the ultimate punishment of dismissal, and chose to merely remove him from service. The question of undue harshness or undeserved severity cannot, therefore, be invoked in this case, since a certain measure of leniency seems to have been already extended to the applicant. In any case, we are precluded from going into the aspect of the measure or degree of punishment vis-a-vis, the offence. This is a settled legal position supported, among others, by the verdict of Hon'ble Supreme Court in Parma Nanda's case (AIR 1989 SC 1185 - Union of India Vs. Parma Nanda). We, therefore, refrain from either commenting ^{on,} much less interfering ~~in,~~ as far as the quantum of punishment is concerned.

7. It is noticed that a regular enquiry was ordered and held by the concerned authorities. The applicant



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participated in the enquiry at all stages throughout the 22 sittings held by the Inquiry Officer. The applicant was permitted to cite his witnesses and certain documents on which he sought to rely in support of his version of events before the Inquiry Officer. A copy of the report of the Inquiry Officer was duly furnished to him, and he was afforded an opportunity to make a final submission before a decision was taken in the matter. Thus, no part of the proceedings can be regarded as flawed in any way and no principles of natural justice are seen to have been violated. We have, therefore, come to the conclusion that the applicant was not denied any reasonable opportunity at any stage to defend himself, or to project his own version of the events, duly adducing evidence in support thereof. The impugned proceedings are, therefore, correct in this aspect as well and cannot be interfered with.

8. The applicant has raised a few issues in his pleadings in this O.A. These have been summarised in para-3 above. But from the records/proceedings produced before us, it is apparent that the very same questions were raised in some form or the other by the applicant. And these had been taken note of, and duly examined and commented upon during the enquiry: the enquiry report dealt with these questions explicitly. The disciplinary authority also referred to almost all these issues in his final orders. The appellate authority, i.e., the Senior Superintendent of Post Offices, has also alluded to some of these very questions. Under the circumstances it would not be correct to say that the applicant's arguments advanced

_____ H. Jigadekar

To

1. The Postmaster General, Union of India,
Andhra Pradesh, Hyderabad.
2. The Senior Superintendent of Post Offices,
Srikakulam Division, Srikakulam.
3. The Asst. Superintendent of Post Offices,
Srikakulam (West) Sub Division, Srikakulam.
4. One copy to Mr. Bharat Kumar, Advocate, CAT. Hyd.
5. One copy to Mr. N.V. Ramana, Addl. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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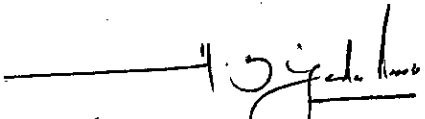
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in his defence, were either disregarded or completely ignored by the Inquiry Officer, the Disciplinary Authority or the Appellate Authority. In any case, we do not at all feel inclined to reassess or reappraise the evidence tendered by various witnesses in the course of enquiry, in order to reach a conclusion other than what has been already arrived at. Such an effort is neither called for nor desirable as brought out by the Madras Bench of this Tribunal in O.A.No.445 of 1988 (Shivagurunath Vs. UOI).

9. To sum up, the applicant has failed to produce any fact or evidence which would call for an interference in his favour by this Tribunal. This fact, coupled with our finding that the enquiry itself was free and in consonance with the principles of natural justice, makes it difficult for us to accept the prayers made by him in this application. We are, therefore, constrained to uphold the impugned proceedings against Sri T.Rama Rao, formerly EDDA, S.M.Puram, Srikakulam Postal Division, issued by Assistant Superintendent of Post Offices, Srikakulam (West) Sub-division, vide Memo No.PF/EDDA-Pkr/S.M.Puram/90 dt. 28.2.1990. Accordingly, we are unable to direct the granting of any of the reliefs prayed for by the applicant.

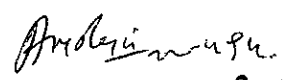
10. The O.A. is thus disallowed. No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMN.)


(T. CHANDRASEKHARA REDDY)
MEMBER (JUDL.)

Dated 31 March, 1994.

Grh.


Deputy Registrar (J)

