

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 516/91.

Dt. of Decision : 27-9-94.

Y.V. Kamesham

.. Applicant.

Vs

1. Post Master General,
Hyderabad Region, Hyderabad.
2. Director of Postal Services,
Hyderabad Region, Hyderabad.
3. Secretary, Ministry of Communications,
Dept. of Posts, Govt. of India,
New Delhi. .. Respondents.

Counsel for the Applicant : Mr. S. Ramakrishna Rao

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

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

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

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O.A.516/91

Dt.of order:27.09.1994

ORDER

[(As per Hon'ble Shri A.V.Haridasan, Member(J))]

The applicant, who was working as LSG SPM, Bellampally, was served with a Memorandum of Charges dated 8.2.1988, containing 4 heads of charges on the allegation that, he, while functioning as SPM, Bellampally, effected pre-mature closure of certain SB Accounts without verifying the signatures of the depositors for withdrawal and thereby controvenered the provisions contained in Rule 504 of P&T Manual Vol.VI and exhibited lack of devotion to duty, as required by him under Rule 3(1)(i) and (ii) of CCS(Conduct) Rules, 1964. The applicant in his explanation denied the charges. An enquiry was held. The Enquiry Authority submitted his report finding him guilty of the charges. The Disciplinary authority by its order dated 17.1.1991, accepted the ^{and} report of the enquiry authority finding the applicant guilty of the charges ~~and~~ imposed on him, the punishment of dismissal from service. The applicant submitted an appeal to the first respondent on 10.3.1991. There was a delay of about 15 days in submitting the appeal which he explained by submitting a Medical certificate along with the memorandum of appeal. The appellate authority vide its order dated 26.3.1991 (Annexure I to the OA) rejected the appeal on the ground, that it was barred by limitation, rejecting his request for condonation of the delay. In the memorandum of appeal submitted by the applicant (Annexure 3 to the OA) the applicant had raised several grounds against the impugned order of punishment which is at annexure 2 to the OA. The important points which he had raised are-

- i) The enquiry was not held in conformity of the principles of natural justice.
- ii) That, he was not given adequate opportunity to defend himself as certain documents, which he wanted to make an appropriate defence were not given to him and

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the defence witness~~s~~cited by him was not allowed to be examined.

He had also contended that the documents relied on for finding him guilty were not legally admissible in evidence as, some of them were tampered. Since the appellate authority had refused to condone the delay of 15 days in filing the appeal of the applicant and rejected the appeal, which resulted in confirming the order of dismissal from service, the applicant has filed the present application impugning the order of the appellate authority.

2. We have heard Mr S.Ramakrishna Rao, learned counsel for the applicant and Mr Rajeswara Rao, for Mr NV Ramana, Standing counsel for the respondents.

3. Shri Ramakrishna Rao, counsel for the applicant, with considerable vehemence argued that the enquiry in this case has been a farce in ^{which} the applicant was not given any opportunity to defend himself as the defence witnesses cited by him, were not permitted to be examined, and the documents which the applicant strongly relied for the purpose of making ^{his} defence were not made available to him. He further argued that, as there is no allegation against him of having mis-appropriated any fund and as the counter-clerk was ~~only~~ responsible for what happened, the impugned order of dismissal from services in the case of the applicant can not at all be justified.

4. When an appeal is filed before the Appellate authority, the appellate authority is expected to see whether the enquiry has been held in conformity with the rules, that the evidence on record justifies the finding arrived at by the disciplinary authority and whether the penalty awarded is adequate or unduly harsh and as the appellate authority in this case, has not performed these statutory duties cast on him for the reason that the submission of the

appeal was delayed by a few days, we are of the considered view that this is a matter where the appellate authority should be directed to consider the appeal on merits condoning the delay in submission thereof. Since the decision of the appellate authority provided in the statutory departmental rules may help in final adjudication of the issues if necessary by judicial forum, we are choosing this course rather than ourselves going into the merits of the case.

5. In the result, for what is stated in the fore-going paragraphs, we set aside the order of the appellate authority dated 26.3.1991 (annexure 1 to the OA) and direct the first respondent to consider the appeal submitted by the applicant against the order of dismissal from service condoning the delay in submitting the appeal as expeditiously as possible; and, anyhow, not later than a period of three months from the date of communication of this order. There is no order as to costs.

(A.B. GORTHI)
Member (A)

(A.V. HARIDASAN)
Member (J)

Dated: The 27th Sept., 1994

Dictated in the Open Court

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Dy. Registrar (Judl.)

Copy to:-

1. Post Master General, Hyderabad Region, Hyderabad.
2. Director of Postal Services, Hyderabad Region, Hyderabad.
3. Secretary, Ministry of Communications, Dept. of Posts, Govt. of India, New Delhi.
4. One copy to Sri. S. Ramakrishna Rao, advocate, CAT, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. 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 HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

Dated: 27/9/94

ORDER/JUDGMENT.

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

O.A.NO.

516/91

T.A.NO.

(W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn.

No spare copy

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

YLKR

