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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. No. 840/91.

Dt. of Decision : 31.10.94.

M. Sarangapani

.. Applicant.

Vs

1. The Superintendent of Post Offices,
Warangal Division, Warangal.

2. Asst. Superintendent of Post offices,
Warangal.

.. Respondents.

Counsel for the Applicant : Mr. D. Linga Rao

Counsel for the Respondents : Mr. Rajeshwara Rao for
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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A

ORDER

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

The order of the 1st respondent dated 23.08.1991 (Annexure AI) by which the applicant, who was working as EDBPM, Annaram was put off duty under Rule 9 of the P&T EDAs (Conduct & Service) Rules, 1964, is under challenge in this application. The applicant's case is that, since he has not committed any mis-conduct and no disciplinary proceedings of any source has been initiated against him, and ^{as} ~~that~~ nothing is stated in the impugned order of 'put off' duty ~~and~~ the order of put off duty without assigning any reason is unjustified and liable to be struck down.

2. When the application was admitted, an interim order was issued, ~~directing~~ staying the operation of the impugned order which is still in force. In the reply statement, the respondents have ~~xxx~~ sought to justify the impugned order on the ground that having come to light that the applicant was involved in as many as 5 criminal cases pending investigation/trial before different Courts, the competent authority has, in accordance with the guidelines issued by the DG P&T, vide his letter dated 25.08.1991, put the applicant off duty.

3. We have perused the material on record and have heard Mr D.Linga Rao, Counsel for the applicant and Mr Rajeshwara Rao for Mr NV Ramana, Counsel for the respondents.

4. Shri D.Linga Rao, Counsel for the applicant brought to our notice that Rule 9 of the ED Agents Conduct and Services Rules do not provide for putting an ED Agent off duty during pendency of investigation of a criminal case. However, he conceded that there is administrative instruction in the form of guidelines which permits putting an ED Agent off duty if he is involved in criminal cases, involving moral turpitude

Copy to:

1. The Superintendent of Post Offices,
Warangal Division, Warangal.
2. Asst. Superintendent of Post Offices,
Warangal.
3. One copy to Mr. D. Linga Rao, Advocate,
1-1-258/10/C, Chikkadapalli, Hyderabad.
4. One copy to Mr. N. V. Ramana, Addl. CGSC, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One copy for spare.

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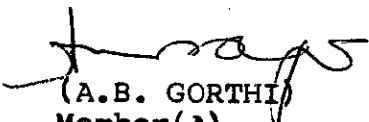
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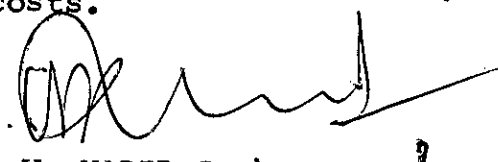
and when such involvement creates embarrassment to the discharge of his duties. He now argues that the impugned order at Annexure AI does not disclose that the competent authority has applied its mind to any of these factors and has come to the conclusion that the applicant is either involved in criminal cases, ^{involvement} or moral turpitude and his continuance in service would cause embarrassment to the Department. Under these circumstances, the counsel for the applicant argues that the impugned order at annexure AI has no legs to stand and must topple.

5. Learned counsel for the respondent on the other hand argued that his involvement in criminal cases is sufficient reason for putting him off duty.

6. Unlike a Government employee under suspension, an ED Agent, as per the existing rules is not entitled to subsistence allowance. ^{re} Therefore before, putting the EDA off duty, it is necessary that the competent authority should take into consideration of the ingredients contained in the guidelines and put the ED Agent off duty only if it considers that the circumstances warranted such an action. In this case, we are of the considered view, that the impugned order does not disclose any such application of mind, and that for that reason, the impugned order is liable to be struck down. We do so.

7. In the result, the application is allowed. The impugned order at Annexure AI putting the applicant off duty is set aside. But, we make it clear that it will be open to the competent authority to take into account the involvement of the applicant in the said criminal cases that were pending and to take an appropriate decision as to whether the applicant should be put off duty or not. There is no order as to costs.


(A.B. GORTHI)
Member(A)


(A.V. HARIDASAN)
Member(J)

Dated: The 31st October, 1994

(Ocd) Deputy Registrar

Typed by
Checked by

Compared by
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.GORTHY : MEMBER(A)

Dated: 31-10-94

ORDER/JUDGMENT.

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

D.A.NO. 840/91 in
T.A.NO. (W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

Dismissed.

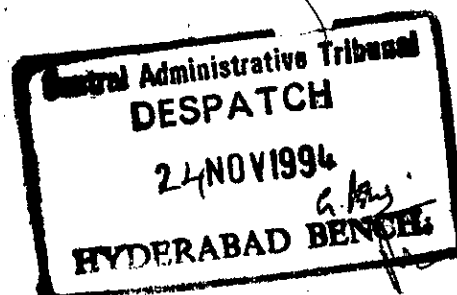
Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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