

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1070/91

Date of Order: 9.7.1993

BETWEEN :

C.Ramaiah

.. Applicant.

A N D

1. The Senior Superintendent,
Railway Mail Services,
Hyderabad Sorting Division,
Hyderabad.
2. The Director of Postal Services,
Andhra Pradesh Northern Region,
Hyderabad.
3. The Chief Post Master General,
Andhra Pradesh Circle, Hyderabad.
4. The Member (P), Postal Services
Board, Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi - 1.

.. Respondents.

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.N.V.Raghava Reddy

CORAM:

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

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

Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member(Admn.).

The applicant, aggrieved by the penalty of withholding of one increment for a period of 3 years without cumulative effect, has filed this application with a prayer that the penalty order be set aside with all consequential benefits. Besides the main relief, the applicant prayed for an interim relief for a direction to implement his pending promotion to the post of Assistant Superintendent of RMS.

2. The applicant was served with a charge memo on 24.6.1988 for taking disciplinary proceedings for the imposition of a minor penalty. The accusation against the applicant was that when he was work as the Office Supervisor in the office of the Senior Superintendent RMS, Hyderabad Sorting Division, drew an amount of Rs.18,130/- as temporary advance between May 1987 to February 1988 at different intervals and failed to account for the same within one month from the date of drawal of each advance. When enquiry was made and same was brought to the notice of the applicant, he credited all the amounts with penal interest during April, May and June 1988. In reply to the charge memo the applicant had stated that due to pressure of work he could not verify the adjustment of credit and that he would accept the same as a mistake of his part. He pleaded for pardon on the ground that the entire amount had been credited by him with penal interest. On receipt of the reply, the competent disciplinary authority inflicted the penalty of withholding one increment that became due on 1.1.1989 for a period of six months without cumulative

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effect. The appellate authority without even calling for the relevant records issued a notice to the applicant proposing to enhance the penalty. Although the applicant represented as to why the penalty should not be enhanced, the Director Postal Services vide ourder dated 3.3.1989 enhanced the punishment to that of withholding of one increment ~~for a period~~ of 3 years without cumulative effect. The applicant's contention is that he became due for promotion w.e.f. 1.1.1989 but the respondents and unfairly/unjustly denied him the said promotion on the pretext of the pending disciplinary proceedings/currency of the penalty.

3. The respondents in their reply affidavit have stated that as the applicant accepted his guilt, he was rightly punished by the competent authority. The appellate authority who had an opportunity of calling for the records and examining the same at the time when initial compliants were made into the conduct of the applicant, considered that the penalty imposed by the disciplinary authority was lenient. He therefore, gave a notice to the applicant calling for an explanation as to why the penalty should not be enhanced. The action of the appellate authority is ⁱⁿ accordance with the relevant rules and cannot be assailed, as contended by the respondents. As regards the claim of the applicant for promotion the respondents contention is that the applicant became due for promotion not on 1.1.1988, but later in the year 1989. A DPC was held in January 1989 to consider the name of the applicant for promotion against SF quota and as at that time the penalty of withholding of increment was in operation the applicant was not promoted.

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4. Mr. S. Rama Krishna Rao, Learned counsel for the applicant assailed the validity of the penalty on several grounds. Firstly he urged that the applicant did not categorically confess his guilt but took the plea that it was only an inadvertent mistake. We are not fully satisfied with this contention because a perusal of Annexure 3 which is the reply submitted by the applicant in response to the charge memo would clearly indicate that he accepted his guilt without any reservation. Secondly the disciplinary authority was fully justified in accepting the same and coming to his own conclusion with regard to the guilt of the applicant.

5. It is seen that on the date when the penalty was imposed by the disciplinary authority all the relevant records were with the Director Postal Services who is the Appellate authority. In view of this the contention of the applicant's counsel is that the disciplinary authority did not apply his mind properly before imposing the penalty. As already stated in view of the categorical admission of the guilt by the delinquent employee it cannot be said that the disciplinary authority did not apply his mind to the merits of the case merely because the relevant record was at that time with the Director Postal Services. Mr. S. Ramakrishna Rao challenged the validity of the Appellate authority's decision to enhance the punishment mainly on the ground that the said authority issued a show cause notice to the applicant without first calling ^{for} the relevant records, as stipulated in DG P&T letter No. 6/1/72 Dist. dt. 27.7.72. Relevant

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portion of the said letter is extracted below:-

"In other words, the appellate authority should clearly indicate in the order calling for the records of the case that it proposes to revise the order and it is in this connection the papers are being called for. At the same time the Government servant should also be informed that the appellate authority proposes to revise the case. It is necessary to ensure that the intention of the appellate authority to revise the orders in this way is conveyed to all concerned within the stipulated period of six months from the date of the order proposed to be revised."

6. A careful perusal of the afore-said D.G., P&T letter would show that as stipulated in Rule 29(1)(v) of CCS(CCA) Rules, the appellate authority may revise the penalty and for that purpose call for the records of any enquiry and any order made under said rules within a period of six months from the date of the order proposed to be revised. The D.G., P&T letter clarifies that while calling for the records the intention of the appellate authority to enhance the punishment should be made known to all concerned, particularly to the delinquent employee. The essence of the said letter is that within a period of six months the delinquent employee must come to know the intention of the appellate authority to enhance the penalty. This requirement, in the instant case, is sufficiently met.. by the appellate authority's action of issuing a show cause notice to the applicant indicating that he proposed to enhance the penalty.

7. In the light of what has been stated above we find that there is no irregularity or illegality in awarding the penalty to the applicant as would warrant our interference.

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8. As regards the claim for promotion, it is altogether a different matter and it is not desirable that multiple reliefs should be entertained in a single OA. In view of this we would not like to express any view on the merits of the applicant's claim for promotion to the post of AS RMS.

9. The application is dismissed with the above observations. M.A.429/93 which is for a direction on the interim relief is also hereby dismissed. The parties shall bear their own costs.

T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

A. B. Gorthi
(A. B. GORTHI)
Member (Admn.)

Dated: 9th July, 1993

(Dictated in Open Court)

S. M. J.
Deputy Registrar (J)

To sd

1. The Senior Superintendent, Railway Mail Services, Hyderabad Sorting Division, Hyderabad.
2. The Director of Postal Services, A.P. Northern Region, Hyderabad.
3. The Chief Postmaster General, A.P. Circle, Hyderabad.
4. The Member (P) Postal Services Board, Dept. of Posts, Dak Bhawan, Sansad Marg, New Delhi-1.
5. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyd.
6. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC. CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. One spare copy.

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Stamp affixed