

(34)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD  
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O.A. 1153/91.

Dt. of Decision : 21.11.94.

M. Chandra Sekhar Reddy

.. Applicant.

Vs

1. Chief Postmaster General,  
Andhra Pradesh Circle,  
Hyderabad.
2. Director of Postal Services,  
Hyderabad Region, Hyderabad.
3. The Superintendent,  
Circle Stamps Depot,  
A.P.Circle, Sec'bad.

.. 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. GORTHY : MEMBER (ADMN.)

DA 1153/91.

Dt. of Order: 21-11-1994.

(Order passed by Hon'ble Shri A.V. Haridasan,  
Member (J) ).

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The applicant who was working as E.D. Packer, Circle Stamps Depot, A.P. Circle, Secunderabad, was proceeded against under Rule-8 of E.D. Agent Conduct Rules on a memorandum of charges dt. 12-9-89. As the appointing authority of the applicant was a material witness against him in the proceedings, by order dt. 20-12-89, the Chief Post Master General appointed the Sr. Superintendent of Post Offices, Hyderabad South East Divn., to function as Disciplinary Authority. The enquiry was held and the Sr. Superintendent of Post Offices, Hyderabad South East Divn., ~~xxxxxx~~ on a consideration of the report of the enquiry ~~held~~ the applicant guilty of the misconduct but awarded to him only a penalty of barring him from appearing in the Departmental Examination for Postman and Class-IV <sup>posts</sup> for a period of two years from the date of issuance of the penalty orders, by his order dt. 17-9-91. During the period while the enquiry was in progress, the applicant was under put-off duty. Even after the order dt. 17-9-91 (Annexure A-V) was issued, the applicant was not put back to duty but by the impugned order dt. 13-11-1991, the Chief Post Master General stated that as there was no concept of Disciplinary Authority and Adhoc Disciplinary Authority provided in the ED Agents (Conduct & Service) Rules, 1964, the appointment of Adhoc Disciplinary Authority ~~xxx the order~~ ~~passed by such an Adhoc Disciplinary Authority~~ was irregular and he by the said order cancelled appointment of Sr. Superintendent of Post Offices, Hyderabad South East Divn., and nominated the Director of Postal Services, Hyderabad City Region, Hyderabad to exercise the powers of the appointing authority in the matter of awarding any of the penalties specified in Rule-7 of the E.D. Agents (Conduct & Service)

Rules, in respect of the applicant ordering that the Disciplinary Proceedings could be held by the Director of Postal Services, Hyderabad City Region, denovo from the stage of issue of copy of enquiry report. It is this order that has been challenged in this application. The applicant contends that appointment of Sr. Superintendent of Post Offices, Hyderabad South East Division was perfectly in order and in conformity with the Rule 3(A) of ED Agents (Conduct & Service) Rules and that the action of the Chief Post Master General in cancelling the Annexure-IV order and nominating the Director of Postal Services to exercise the powers of appointing authority for the purpose of awarding punishment on the applicant is unsustainable, by malafides and therefore is liable to be struck down.

2. The Respondents contend that as there is no concept of Disciplinary Authority, much less of adhoc Disciplinary Authority in the case of E.D. Agents was issued the order dt. 13-11-1991 only for redifying the error committed by him earlier and therefore the situation does not call for judicial intervention.

3. Having perused the pleadings and the concerned provisions in the Rules and having heard counsel for the parties, we have no doubt left in our mind of the fact that the impugned order is unsustainable. It is a fact beyond dispute that the Sr. Superintendent of Post Offices, Hyderabad South East Divn. was authorised to exercise powers of the Disciplinary Authority in the case of the applicant as the appointing authority in his case was a material witness against him and therefore was disabled from functioning as Disciplinary Authority. Rule-3(A) of the ED Agent (CONDUCT & Service) Rules reads as follows :-

"3-A. The powers of the appointing authority in the matter of awarding any of the penalties specified in Rule-7 may be exercised by an authority which has been shown in the Schedule annexed to these rules or by any other authority empowered in this

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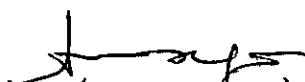
behalf by a special order of the Head of the Circle under circumstances to be recorded in writing;

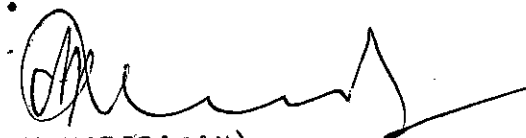
Provided that in no case, the authority so appointed shall be lower in rank than the authority who originally appointed the E.D.Agent."

There is no case for the Respondents that the Sr. Superintendent of Post Offices, Hyderabad South East Divn. is an official lower in rank to that of the appointing authority of the applicant. Therefore, there was absolutely no irregularity in the order of Chief Post Master General dt.20-12-1989 authorising the Sr.Suptd., of Post Offices, Hyderabad South East Divn., to exercise powers of the appointing authority in the case of the applicant for awarding the penalties mentioned in Rule-7. Obviously, it is because of the fact that the Sr.Suptd., of Post Offices, Hyderabad South East Divn., awarded only a penalty of debaring the applicant from appearing the departmental tests for a period of two years and which penalty is considered not sufficient according to the Chief Post Master General that the Chief Post Master General has resorted to issue of the impugned order. We are of the considered view that the Chief Post Master General should not have resorted to such action because such a procedure is not laid down in any rules. If he was not satisfied with the penalty imposed, he has to take recourse to action, if any provided under the

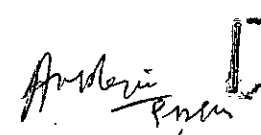
Rules. The case of the Respondents that there is no concept of disciplinary authority or adhoc disciplinary authority is not correct. Rule-8 of E.D.A.(Conduct & Service) Rules provides for taking disciplinary proceedings against E.D.Agents: Disciplinary Proceedings can be taken only by Disciplinary Authority. Therefore the contention is against the Rules. So, the reason stated for cancellation of Annexure-IV order by the impugned order is unsustainable.

2. In the result the impugned order Annexure A-1 dt.13-11-1991 is set aside and the respondents are directed to reinstate the applicant in service with effect from 17-9-91 with consequential benefits including backwages from that date. The respondents shall reinstate the applicant in service forth with and pay him the backwages within two months from the date of receipt of this order. No order as to costs.

  
(A.B.GORCHI)  
Member (A)

  
(A.V.HARIDASAN)  
Member (J)

Dt. 21st November, 1994.  
Dictated in Open Court.

  
Dy. Registrar (Judl)

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Copy to:-

1. Chief Postmaster General, A.P.Circle, Hyderabad.
2. Director of Postal Services, Hyderabad Region, Hyderabad.
3. The Superintendent, Circle Stamps Depot, A.P.Circle, Sec't
4. One copy to Sri. S.Rama Krishna 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/-

