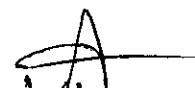


RA. 64/92  
m.

110/92

ANNEXURE - I

List of Papers in Original Application No.

Sl.No. of Papers	Date Of Papers Or Date of filing.	Description of Papers.
	18-6-92	Part - I Original Judgement
		O.A & Material Papers.
		Counter
		Reply Counter
PART - I, PART - II and PART - III Destroyed.		 23/3/99

# Central Administrative Tribunal

HYDERABAD BENCH

O.A. No./T.A. No. P.P. No. 64/92 in O.A. No. 110/92

G. Dakappa.....Applicant(s)  
versus  
The Supt. of Post offices, Mahaboobnagar & another Respondent (s)

Date	Office Note	Orders

(P.T.O.)

R.P.No.64/92 in O.A.No.110/92.

Order in the above R.P. as dictated by

Hon'ble Shri R.Balasubramanian, Member(A)

duly transcribed is put up herewith please.

(In circulation).

MM  
17/6/92

HM(A) Sh.RBS  
HM(J) Sh.TCR

PS to HM(A).

*see* *A*  
*C-1*  
*18/6/92*

*18/6/92*

(B)

CAT/J/12

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

R.P.No.64/92  
in

O.A. No. 110/92. 100  
~~XXXXXX~~

DATE OF DECISION 18-6-92

G.Dakappa

Petitioner/Applicant

Shri S.Ramakrishna Rao

Advocate for the Petitioner(s)/Applicant

Versus

The Supdt. of Post Offices, Respondents/Respondents  
Mahabubnagar Division, Mahabubnagar & another

Shri N.R.Devaraj, Addl. CGSC

Advocate for the Respondent(s)/Respondent(s)

CORAM :

The Hon'ble Mr. R.Balasubramanian : Member(A)

The Hon'ble Mr. T.Chandrasekhara Reddy : Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-12 CAT/36-3-12-86-15,000

*H*  
HRBS  
M(A).

*T - r - n - p*  
HTCR  
M(J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

R.P.No.64/92

Date of Judgement 18-6-92

in  
O.A.No.110/92.

G.Dakappa

.. Petitioner/Applicant

Vs.

1. The Supdt. of Post Offices,  
Mahabubnagar Division,  
Mahabubnagar.

2. The Postmaster-General,  
Hyderabad Region,  
Hyderabad. .. Respondents/Respondents

---

Counsel for the Petitioner/  
Applicant : Shri S.Ramakrishna Rao

Counsel for the Respondents/  
Respondents : Shri N.R.Devaraj, Addl. CGSC

---

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri T.Chandrasekhara Reddy : Member(J)

I Judgement as per Hon'ble Shri R.Balasubramanian, Member(A) I  
--- (In circulation).

This review petition has been filed by Shri G.Dakappa under Rule 17 of the Central Administrative Tribunal (Procedure Rules, 1987 against the Supdt. of Post Offices, Mahabubnagar Division, Mahabubnagar & another, seeking a review of the order dt. 26.3.92 in O.A.No.110/92. The direction in the O.A. was that the respondents should consider the case of the applicant for promotion under the second Time Bound Promotion Scheme within a month after the punishment he was undergoing comes to an end marked by recovery of the entire amount ordered provided of course if he was found fit.

2. It is <sup>his</sup> case now, as <sup>also</sup> earlier, that the recovery of the amount due to the Government should not affect his promotion.

3. There is nothing new in this review petition and no error apparent has been pointed out. All that the applicant wants

10/

is a reconsideration of the case which is not permissible under the review procedure. The review petition is accordingly dismissed with no order as to costs.

R.Balasubramanian  
( R.Balasubramanian )  
Member(A).

T.Chandrasekhar Reddy  
( T.Chandrasekhar Reddy )  
Member(J).

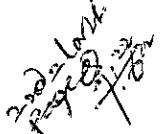
Dated: 18 June, 1992.

  
Deputy Registrar(J)

To

1. The Superintendent of Post Offices,  
Mahaboobnagar Division, Mahaboobnagar.
2. The Postmaster General, Hyderabad Region,  
Hyderabad.
3. One copy to Mr.S.Ramakrishna Rao Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, Addl.CGSC. CAT.Hyd.
5. One copy to Mr.T.Chandrasekhar Reddy, M(J)CAT.Hyd.
6. One spare copy.

pvm.



*part 2*

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

THE HON'BLE MR.

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY : MEMBER(J)

AND

THE HON'BLE MR.C.J. ROY : MEMBER(J)

Dated: 18 - 6 - 1992

ORDER/JUDGMENT

P.A./C.A./M.A. No. 64/92

in

O.A. No.

110/92

T.A. No.

(W.P. No.

Admitted and interim directions issued

Allowed

Disposed of with directions

RF Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.



ANNEXURE - I

List of Papers in Original Application No.

110/92

Sl.No. of Papers	Date Of Papers Or Date of filing.	Description of Papers.	Part - I
	26-3-92	O	Original Judgement
		O.A & Material Papers.	
		Counter	
		Reply Counter	

PART - I, PART - II and PART --- III  
Destroyed.

O.A.No.110/92.

Pre-delivery Judgment in the above O.A.  
prepared by Hon'ble Sri R.Balasubramanian,  
M(A) for concurrence please.

To  
Hon'ble Sri T.Chandrasekhar Reddy,  
Member (J)

seen  
20/3/92

19/3/92

For posting on 26  $\frac{3}{92}$

19/3/92

(25)

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 110/92

Date of Decision :

TAXNQ.

Mr. G.Dakappa

Petitioner.

Mr. Sanka Ramakrishna Rao

Advocate for the  
petitioner (s)

Versus

The Superintendent of Post Offices,  
Mahabubnagar and another

Respondent.

Mr. N.R.Devaraj, Addl. CGSC

Advocate for the  
Respondent (s)

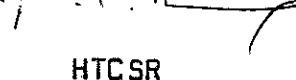
CORAM :

THE HON'BLE MR. R.Balasubramanian, Member (Admn.)

THE HON'BLE MR. T.Chandrasekhar Reddy, Member (Jud1.)

1. Whether Reporters of local papers may be allowed to see the Judgement ? No
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

  
HRBS  
M(A)

  
HTCSR  
M(J)

(35)

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

O.A.No.110/92.

Date of Judgment: 26-3-1992

Between:

G. Dakappa .. . . . . Applicant

Vs.

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

2. The Post Master General,  
Hyderabad Region, Hyderabad. . . . . Respondents

For the applicant : Sri Sanka Ramakrishna Rao, Advocate.

For the respondents : Sri N.R.Deva Raj, Addl. Standing Counsel  
for Central Govt.

CORAM:

HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN.)

HON'BLE SHRI T. CHANDRASEKHAR REDDY, MEMBER (JUDL.)

(JUDGMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE SHRI  
R. BALASUBRAMANIAN, M(A) )

.....

This application is filed by Sri G.Dakappa against the Superintendent of Post Offices, Mahabubnagar Division, Mahabubnagar and another under sec.19 of the Administrative Tribunals Act, seeking a direction to the respondents to consider him for promotion under the Second Time Bound promotion scheme to the cadre of HSG.II from the date, his juniors were promoted, with all consequential benefits.

2. The applicant is working as LSG/Postal Assistant at Mahabubnagar Head office. He had rendered nearly 29 years of service and is due for second Time Bound promotion with effect from 1.10.1991 when he completed 26 years of service. This is provided for under the instructions of the Director General.

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Department of Posts letter dt. 11.10.1991 bearing No.22-1/89-PE.II. When the Superintendent of Post Offices, Mahabubnagar Division issued a Memo dt. 3.1.1992 (Annex.I) promoting several ~~persons~~ people under the Second Time Bound promotion scheme, his name was not included in the list while several of his juniors' names have been included. Aggrieved by the said order, the applicant made an appeal to the Director of Postal Services on 24.7.1990, but the same was rejected. The applicant filed this O.A. aggrieved by the said ~~xxx~~ order dt. 24.7.1990.

3. We have heard Sri S.Ramakrishna Rao, Counsel for the Applicant and Shri N.R.Devaraj, for the respondents at the admission hearing.

4. The reason why the respondents have not considered him for promotion is that the applicant had been punished vide Memo No.F.5/88-89 dt. 31.5.1990 ordering recovery of Rs.13,850/- from the pay of the applicant at Rs.384/- p.m. in 35 instalments. It is the case of the respondents that the applicant was undergoing punishment when his case was due for promotion under the Second Time Bound Promotion scheme, and they could not promote him because of the currency of the punishment. On the other hand Sri S.Ramakrishna Rao, counsel for the applicant drew our attention to the Instruction No.28 Under Rule-11 of the CCS(CCA) Rules.

5. Instruction-6 communicated by G.I.,M.H.A.,D.P.&A.R., O.M.No.22011/2/78-Estt.(A) dt. 16.2.1979 deals with the cases where the departmental proceedings have ended with imposition of minor penalty like 'Censure' or "recovery of pecuniary loss" etc. According to said instruction the case of the employee concerned for promotion/confirmation may be considered by the next DPC when it meets after conclusion of the departmental proceedings (emphasis supplied). It also states that if the

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...3.

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findings of the DPC are in favour of the employee, he may be promoted in his turn if the penalty is that of "Censure" or "recovery of pecuniary loss caused to the Government by negligence or breach of the orders". Against this, we have a Judgment of the Hon'ble Supreme Court in the case of

In para-4 of the Judgment, Their Lordships had extensively extracted from the letter of the Department of Personnel and Training dt. 30.1.1982. The relevant portion is -

"if any penalty is imposed on the Officer as a result of the disciplinary proceedings or if he is found guilty in the court proceedings against him, the findings in the sealed cover/covers shall not be acted upon. The Officer's case for promotion may be considered in the usual manner by the next DPC which meets in the normal course after the conclusion of the disciplinary/court proceedings."

This portion of the Department of Personnel and Training's letter was interfered with by a Full Bench of this Tribunal and modified. The Hon'ble Supreme Court in its turn, interfered with the decision of the Full Bench of this Tribunal and restored the provision as stipulated in the Department of Personnel & Training's letter which has been referred to earlier. While interfering with the Judgment of the Full Bench of this Tribunal Their Lordships of the Hon'ble Supreme Court had observed -

"To qualify for promotion, the least that is expected of an employee is to have an unblemished record. That is the minimum expected to ensure a clean and efficient administration and to protect the public interests."...  
" The least that is expected of any administration is that it does not reward an employee with promotion retrospectively from a date when for his conduct before that date he is penalised in praesenti."

...4.

In this view of the subject it is abundantly clear that a person shall not earn a promotion during the currency of the punishment.

6. The Next question that would, therefore, arises is - whether the recovery order is by way of punishment? We had seen the copy of the order by which the amount is ordered to be recovered. It is the punishment order in exercise of R.16 of CCS (CCA) Rules. The next question would be, what is the duration of the punishment. The disciplinary authority had not indicated that the punishment would be spread over to certain period. He had only ordered recovery of Rs.13,850/- which was the loss caused to the department by contributory negligence of the applicant and that the said recovery will be spread over for a period of 35 months @ Rs.384/- p.m., the last instalment ~~to make~~ <sup>by way of</sup> the final adjustment. As seen, the emphasis is on the number of instalments, perhaps to suit the convenience <sup>of the applicant.</sup> and The stress is not on the duration of the punishment. We, therefore, take <sup>it</sup> that the punishment is current only ~~until~~ and so long as the recovery lasts. In this view of the situation, the period of recovery can even be left to the discretion of the applicant and if he so chooses he can pay the entire lot in one lumpsum and bring to an end the period of punishment. We, therefore, hold that the punishment will be lasting only, till the whole amount is recovered.

7. Under the circumstances, we direct the respondents to consider the case of the applicant for promotion under the Second Time Bound Promotion Scheme within a month after the punishment comes to an end ~~when the entire amount is recovered,~~



(30)

If the applicant is found fit, he shall be promoted with effect from the date he completed the punishment period. With the above directions, we dispose-of the application with no order as to costs.

R.Balasubramanian

( R.BALASUBRAMANIAN )  
MEMBER (A)

T.Chandrasekhar Reddy

( T.CHANDRASEKHAR REDDY )  
MEMBER (J)

Dated: 26<sup>th</sup> March, 1992.

grh.

  
Deputy Registrar (Judl.)

Copy to:-

1. The Superintendent of Post Offices, Mahabubnagar Division, Mahabubnagar.
2. The Post Master General, Hyderabad Region, Hyderabad.
3. One copy to Sri. S. Ramakrishna Rao, advocate, CAT, Hyd.
4. One copy to Sri. N.R. Devaraj, Addl. CGSC, CAT, Hyd.
5. Copy to reporters as per standard list of CAT, Hyd Bench.
6. One spare copy.

Rsm/-

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(5) O.A. 110/92  
TYPED BY *Rone's* COMPARED BY  
CHECKED BY *AJ/92* APPROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:  
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 26/3/1992

ORDER / JUDGMENT

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

O.A. No. 110/92

T.A. No. (W.P. No. )

Admitted and interim directions  
issued

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected:

No order as to costs.

pvm.

