

List of Papers in Original Application No.

RA 111/93 M.OA. 121/92

Sl. No. Of Papers.	Date of Papers Or Date of Filing.	Description of Papers.
		part <u>2</u> I
	21-1-94	original Judgement
		O.A. & Material Papers.
		Counter
		Reply Counter
PART --- I,	PART --- II,	PART --- III Destroyed.
		23/3/99.

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

Case No. RP. No. 111/93 in OA No. 121/1992

K. Sheba Prasad..... Applicant (S)

Surat of Post office, Adilabad..... Versus Respondent (S)

Date	Office Note	Orders
18-1-94.		Post on 19-1-94. HRRN 71(A) HVNRJ VC B.O. DR.S.P.T.B.Y
21-1-94		<u>21-1-94</u> R.P. is ordered vide Judgment on separate sheets. No costs. HRRN 71(A) HVNRJ VC



केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi
प्रधान न्यायपीठ

12.513 (A)

No. 13/9/93-JA

Faridkot House, Copernicus Marg,
New Delhi-110001.

Dated 26 December 1993

To

269/14/93
The Deputy Registrar (J)
Central Administrative tribunal,
Hyderabad Bench,
No.5-10-193, 1st floor,
HACA Bhavan, Post Box No.10
HYDERABAD - 500 004

Sub: Hearing of RA Nos. 111/93, 112/93, 113/93, 114/93, 116/93
117/93 and 58/93 in OA Nos. 121/92, 205/93, 440/92, 151/91,
M.A.No.644/93 in OA 243/93, 251/93 and 834/89 respectively
on the file of Hyderabad Bench - Order of the Hon'ble the
Chairman - solicited regarding.

Sir,

I am directed to refer to your letter No.CAT/Hyd/Judl/106.1
and 110/93 dated 23.11.93, 24.11.93 and 30.11.93 on the above
subject and to say that the matter was placed before the
Competent Authority who has been pleased to constitute a
Bench to hear the above RAs with Hon'ble Vice-Chairman, Hyderabad
Bench along with any other Hon'ble Member of the Bench.

Yours faithfully,

SK
(SANTOSH SARDANA)
DEPUTY REGISTRAR (JA)

PL
DRGJ

28/12/93

*1. pl.
sent a letter
on 28/12/93.*

*use
28/12/93
Review Secy/ Party-I to note
T.M.
29/12*



केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi
प्रधान न्यायपीठ

No. 13/9/93-JA } 11368 (A)

Faridkot House, Copernicus Marg,
New Delhi-110001.

Dated 19th November '93

To

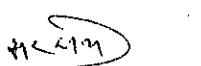
The Deputy Registrar (Judl)
Central Administrative Tribunal,
Hyderabad Bench
No.5-10-193 1st floor,
HAIKAM Bhavan, Post Box No.10
(Opp. Public Garden)
Hyderabad - 500 004

Sub: Hearing of RP No.111/93 in OA 121/92 on the file of
the C.A.T, Hyderabad Bench - Orders of the Hon'ble
Chairman - Solicited - reg.

Sir,

I am directed to refer to your letter No. Nil dated 1.11.93
on the above subject and to say that a photocopy of the orders
passed by Hon'ble Mr. Justice V. Neeladri Rao, Vice-Chairman
may kindly be sent for the perusal of Hon'ble the Chairman
for passing the necessary orders thereon.

Yours faithfully,


(SANTOSH SARDANA)
DEPUTY REGISTRAR (JA)

Judl

23/11/93

47
23/11/93

hours seal
23/11/93

To:
 The Deputy Registrar(JA),
 C.A.T., Principal Bench,
 Faridkot House,
 Copernicus Marg,
 NEW DELHI - 110 001.

Central

ribunal

NOV 1993

P.M.C.H.

Ls.No. CAT/Hyd/Jewel/111-
 11/93

1-11-93

Subt-Hearing of RP.No.111/93 in OA.121/92
 on the file of the C.A.T., Hyderabad
 Bench-Orders of the Hon'ble Chairman-
 Regarding-Solicited.—Reg.

Ref:-Notification No.13/19/91-JA dated.
 18-2-1992 issued by the Hon'ble
 Principal Bench, C.A.T., New Delhi.

Sir,

Review petition No.111/93 has been filed to
 review the order dated 2-9-93 in OA.No.121/92 and
 passed by this Bench consisting of the Hon'ble
 Mr.Justice V.Neeladri Rao, Vice-Chairman, and the
 Hon'ble Mr.P.T.Thiruvendadam, Member(Admn) while
 sitting at Hyderabad Bench. Thereafter the Hon'ble
 Mr.P.T.Thiruvendadam, Member(Admn) has been trans-
 fered to the Hon'ble Principal Bench, CAT., New Delhi.

On circulation ^{of} the said Review petition No.111/93
 before the Hon'ble Mr.Justice V.Neeladri Rao, Vice-Chair-
 man for consideration, directs the Registry to address a
 letter to the Hon'ble Principal Bench for placing the
 same before the Hon'ble Chairman for passing the neces-
 sary orders thereon.

I, therefore, request you to place the matter before
 the Hon'ble Chairman and communicate the orders passed
 thereon.

Kindly acknowledge its receipt.

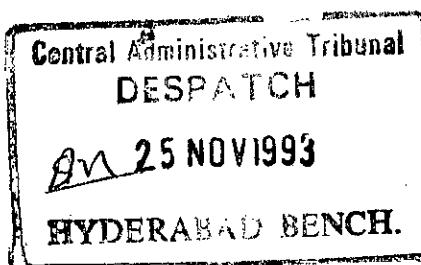
Yours faithfully,

(A.Mohan Krishnam)
 Dy. Registrar(Jud1)

TMK
 11/11/93

CAT

COPY



Lr. No.CAT/Hyd/Judl/108/93.

24-11-1993.

To
The Deputy Registrar(JA),
Central Administrative Tribunal,
Principal Bench,
Faridkot House,
Copernicus Marg,
New Delhi - 110001.

Sub: Photocopy of the orders passed by Hon'ble
Vice-Chairman - sending thereof - Regarding.

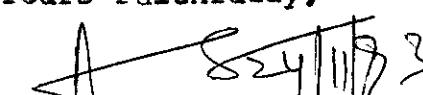
Ref: Lr.No.13/9/93-JA/11368(A), dt. 19-11-93.

— — —

Sir,

In the reference cited, I am directed to send the
Photocopy of the orders passed by the Hon'ble Vice-Chairman,
as desired.

Yours faithfully,


(A. MOHAN KRISHNAM)
Deputy Registrar(J).

Encle As above.

REVIEW PETITION NO.111/93
in
O.A.NO.121/92

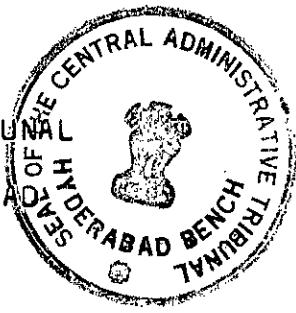
JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

OA 121/92 was filed praying for a direction to the respondent to reinstate the applicant into service from the date he was placed under suspension consequent on the exoneration in the criminal case ~~xxx~~ with all consequential benefits. During the hearing of the said OA, it was stated for the respondent that on exparte inquiry in pursuance of the charge memo issued, the applicant was dismissed from service by way of punishment and ~~xxx~~ accordingly the said OA was dismissed by the order dated 2.9.1993. But at the same time, we observed that the applicant if so advised may prefer an appeal against the exparte order and if such appeal is going to be ~~xxx~~ filed, it is for the appellate authority to consider the question of condoning the delay. It is now stated for the applicant that he had not received either the charge memo or the exparte order of punishment and hence he is not in a position to prefer an appeal. But a copy of the charge memo was filed as Annexure-I of the material papers furnished by the applicant in the OA. But it is stated for the applicant that he had not received any charge-memo from the respondent and he got the copy from other sources. Any how, it is the matter for consideration if an appeal is going to be preferred. Suffice it to observe that as it is stated to be the exact copy of the charge memo, no direction need be given to the respondent to furnish a copy of the charge memo to the applicant.

4
contd....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD



RP 111/93
in
DA 121/92.

Dt. of Order: 21-1-94.

K. Shoba Prasad

vs.

...Applicant

1. Supdt. of Post Offices,
Adilabad Division,
Adilabad Dist.

...Respondents

* * *

Counsel for the Applicant : Shri S. Ramakrishna Rao

Counsel for the Respondents : Shri N.R. Devraj, Sr. CGSC

* * *
CORAM:

THE HON'BLE JUSTICE SHRI V. NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (A)

...2.

.. 3 ..

2. The question as to whether in fact a copy of the order of the dismissal was served on the applicant was not discussed in the OA. It is the matter for consideration about the contention of delay in preferring appeal if such appeal is going to be filed with an application praying for condoning the delay. As we are not considering the same, we feel that it is just and proper to direct the respondent to communicate a fresh copy of the order of the dismissal to the applicant. We make it clear that thereby it cannot be stated that we are accepting the contention for the applicant that he was not served with a copy of the order of the dismissal and it is the matter for consideration at the appropriate time as already referred to. The R.P. is ordered accordingly.

CERTIFIED TO BE TRUE COPY
S. Ramakrishna Rao
Date 9/2/96
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

Copy to:-

1. Supdt of Post Offices, Adilabad Division, Adilabad Dist.
2. One copy to Sri. S.Rama krishna Rao, advocate, CAT, Hyd.
3. One copy to Sri. N.R.Devaraj, Addl. CGSC, CAT, Hyd.
4. One copy to Library, CAT, Hyd.
5. One spare copy.

Rsm/-

Rsm/-

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
R.A./M.A./C.A. No. 111/93
ORIGINAL APPLICATION NO. 121 OF 1992.

TRANSFER APPLICATION NO.

REC'D PETN. NO.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room(Decided)

Dated: 21/2/93

Counter Signed:

Signature of Dealing Asst.

Section Officer/Court Officer,

Rsm/-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

RP 111/93

in

DA 121/92.

Dt. of Order: 21-1-94.

K. Shoba Prasad

...Applicant

Vs.

1. Supdt. of Post Offices,
Adilabad Division,
Adilabad Dist.

...Respondents

* * *

Counsel for the Applicant : Shri S. Ramakrishna Rao

Counsel for the Respondents : Shri N.R. Devraj, Sr. CGSC

* * *

CORAM:

THE HON'BLE JUSTICE SHRI V. NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (A)

...2.

(12)

REVIEW PETITION NO.111/93
in
O.A. NO.121/92

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN)

OA 121/92 was filed praying for a direction to the respondent to reinstate the applicant into service from the date he was placed under suspension consequent on the exoneration in the criminal case ~~and~~ with all consequential benefits. During the hearing of the said OA, it was stated for the respondent that ~~on~~ ex parte inquiry in pursuance of the charge memo issued, the applicant was dismissed from service by way of punishment and ~~and~~ accordingly the said OA was dismissed by the order dated 2.9.1993. But at the same time, we observed that the applicant if so advised may prefer an appeal against the ex parte order and if such appeal is going to be ~~made~~ filed, it is for the appellate authority to consider the question of condoning the delay. It is now stated for the applicant that he had not received either the charge memo or the ex parte order of punishment and hence he is not in a position to prefer an appeal. But a copy of the charge memo was filed as Annexure-I of the material papers furnished by the applicant in the OA. But it is stated for the applicant that he had not received any charge-memo from the respondent and he got the copy from other sources. Any how, it is the matter for consideration if an appeal is going to be preferred. Suffice it to observe that as it is stated to be the exact copy of the charge memo, no direction need be given to the respondent to furnish a copy of the charge memo to the applicant.

contd....

13

.. 3 ..

2. The question as to whether in fact a copy of the order of the dismissal was served on the applicant was not discussed in the OA. It is the matter for consideration ~~in regard to~~ about the contention of delay in preferring appeal if such appeal is going to be filed with an application praying for condoning the delay. As we are not considering the same, we feel that it is just and proper to direct the respondent to communicate a fresh copy of the order of the dismissal to the applicant. We make it clear that thereby it cannot be stated that we are accepting the contention for the applicant that he was not served with a copy of the order of the dismissal and it is the matter for consideration at the appropriate time as already referred to. The R.P. is ordered accordingly.

.....
(R.RANGARAJAN)
MEMBER(ADMN.)

.....
(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 21st January, 1994.
Open court dictation.

v sn

Artlyc
Deputy Registrar(Judl.)

Copy to:-

1. Supdt of Post Offices, Adilabad Division, Adilabad Dist.
2. One copy to Sri. S.Rama krishna Rao, advocate, CAT, Hyd.
3. One copy to Sri. N.R.Devaraj, Addl. CGSC, CAT, Hyd.
4. One copy to Library, CAT, Hyd.
5. One spare copy.

Rsm/-

R.P. 111/93

TYPED BY

O.A. 121/92
COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND

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

AND

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

AND

THE HON'BLE MR.R. RANGARAJAN : MEMBER(A)

Dated: 21/1/1993

ORDER/JUDGMENT:

M.A/R.A/C.A.No. 111/93

in

O.A.No. 121/92

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

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

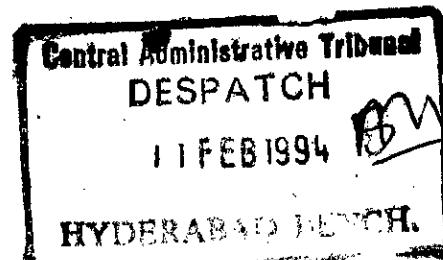
Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm



ANNEXURE - I

List of Papers in Original Application No.

121/92

Sl. No. Of Papers.	Date of Papers Or Date of Filing.	Description of Papers.
	2 - 9 - 93	Part I
		Original Judgement
		O.A. & Material Papers.
		Counter
		Reply Counter

PART - I, PART - II,

PART - III
Destroyed.

23/3/99


Date	Office Note	Orders
29.7.92	<u>Before the D.R.C.J.</u> for Counter	Even after granting 6 weeks time for filing counter, the Counter is not filed. Hence Post the case in usual course.
<u>13/8/92</u>	Counter-Affidavit filed by Mr. M. Jagar Mohan Reddy, Addl. C.J.J.	<u>8/8/92</u> S.R. Registrar (J) <u>M.A. 884/92 in O.A. 121/92</u>
<u>19.8.92</u>		M.A. is allowed. Considering the delay in filing the Counter affidavit by the respondent Counsel. Office is directed to receive the same and fix the O.A. for hearing in its turn.
<u>5-3-93</u>		<u>T - 1. n/p</u> <u>from</u> <u>H.M.G.</u> <u>5-3-93</u> Post the O.A. for final hearing at the top of the list on 1-4-93.
		M.A. 192/93 is accordingly ordered.
<u>12-4-93</u>		<u>✓</u> HVNR.J VC Post on 13-4-1993.
		HVNR.J VC by order.
		HPTT n(A)
		<u>8</u> Registrar, <u>16.4.93</u>
		List the case on 19.4.93 at top of the

of 12 Pg. 1

Date	Office Note	Orders
20/8/93		<p>Print the name of Mr. N. Q. Daniels for remand - per on 21/8/93</p> <p><u>HPTT</u> m/s,</p> <p><u>HNRJ</u> v/c</p> <p>by order, for Registration.</p>
2-9-93		<p>Judgement delivered. The OA is dismissed. No costs. Orders vide separate sheets.</p> <p>✓ HPTT M(A)</p> <p>X HNRJ v/c</p>

Central Administrative Tribunal

HYDERABAD BENCH

O.A. No./T.A. No.

121

19.92

K. Shokha P. and

Applicant(s)

versus

The Superintendents of Post Offices, Adilabad

Respondent(s)

Date	Office Note	Orders
17.2.92		<p>None present Govt either side. Hence adjourned to 9.3.92 Govt admission hearing.</p> <p>(HTCSR) M(J)</p>
9-3-92		<p>Mr. S. Ramakrishna Rao, advocate for the applicant and Mr. M. Jagan Mohan Reddy, Addl. CGSC for the respondent heard in part. Mr. Jagan Mohan Reddy seeks short time to hear instructions from the respondents. In view of this position, list this case for admission hearing on 19.3.92.</p> <p>Y (HRBS) M(A) T.C.M.P (HTCSR) M(J)</p>
-19.3.92		<p>Heard Sri S. Ramakrishna Rao, learned counsel for the applicant. Sri N. Bhas- kara Rao, Addl. CGSC represented Sri M. Jagan Mohan Reddy, learned counsel for respondents. The case is admitted. Respondents are directed to file their reply within 4 weeks with an advance copy to applicant's counsel. List the case on 23.4.92.</p> <p>W.C.J.</p>

16/4

(HCJR)
M(J)

(P.T.O.)

(2)

OA. 121/92

Date	Office Note	Orders
23-4-92		<p><u>OA. 121/92</u></p> <p>Mr. S. Ramakrishna Rao, learned counsel for the applicant and Mr. M. Jagan Mohan Reddy, standing counsel for the respondents both present and heard. The respondents are given time for filing counter. Six weeks time is granted. List the case on 10-6-92.</p> <p><i>usdys</i> (HCJR) M(J)</p>
10-6-92		<p>None present on behalf of the applicant. Reply of the respondents is not yet filed. Six weeks time is given to the respondents to file their reply opposing the OA with a copy to the Advocate for the applicant. The applicant may file his replies ^{replies if any} within one week thereafter. List the on final hearing in the usual course after the pleadings are complete.</p> <p><i>usdys</i> (HABG) M(A)</p> <p><i>T.C.N</i> (HICSR) M(G)</p> <p>10/11/6</p>

stated for the applicant that ~~an~~ ^{an} NBW was pending against him, and he could not participate in the Departmental inquiry. But it is stated that after bail was granted, trial of CC.214/88 was proceeded with ^{the} ~~the~~ plea of the respondent that every month the applicant was collecting subsistence allowance from the office of the respondent, for the period up to the end of August, 1988, was not refuted for the applicant. The case of the respondent is that after Ex-parte Inquiry, the applicant was dismissed from service as per order dated 26-9-1988. While it is stated for the respondent that the said order was sent by Registered Post Acknowledgement Due, it is stated for the applicant that it was not received. It is admitted for the applicant that he received the balance of the subsistence allowance and arrears of DA and Bonus on 11-9-1989 by collecting the same at the office of the respondent at Mancheryal.

3. CC.214/88 on the file of JFCM, Asifabad, ^{ended} handed an acquittal by judgement dated 20-8-1991. This DA was filed praying for a direction to the respondent to reinstate the applicant into service from the date he was placed under suspension consequent to exoneration by the Criminal Court with all the consequential benefits.

4. It is well established that there can be disciplinary inquiry in regard to the very misconduct in ^{regard to} which a charge sheet is filed in the criminal case. The question as to whether the disciplinary inquiry has to be deferred or stayed pending disposal of the criminal case depends upon the request of the delinquent employee, and if such a request is made, the same has to be considered on merits.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.121/92

date of decision : 2-9-1993

K. Shobha Prasad

: Applicant

versus

The Supdt. of Post Offices
Adilabad Division
Adilabad

: Respondent

Counsel for the applicant

: S. Ramakrishna Rao
Advocate

Counsel for the respondent

: N.R. Devaraj
Senior SC for Central Govt.

CORAM :

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATIVE)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri S. Ramakrishna Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondent.

2. The applicant was kept under suspension by order dated 5-9-1986 as disciplinary proceeding was contemplated.

Charge memo dated 4-11-1987 was issued. The said charge memo refers to four charges and all of them relate to misappropriation of the amounts relating to various SB Accounts referred to therein. Complaint dated 9-2-1988 in regard to the said offences was given to the police. CC.214/88 on the file of JFCM, Asifabad, was registered on the basis of charge sheet filed by the police after investigation. It is

(4)

Copy to:-

1. The Supdt of Post Offices, Adilabad Division, Adilabad.
2. One copy to Sri. S.Rama Krishna Rao, advocate, CAT, Hyd.
3. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
4. One copy to Library, CAT, Hyd.
5. One spare copy.

Rsm/-

Case Number 02/1992
Date of Judgement 21/9/93
Copy ready on 27/9/93
[Signature]
Suptn Of Posts (J)

11/1/93
Final

It is not the case of the applicant that he made a request for staying Departmental inquiry pending disposal of the criminal case.

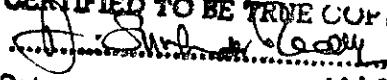
5. The applicant herein was dismissed from service by order dated 26-9-1988 after ex-parte inquiry, and the said order of dismissal was passed long prior to 20-8-1991, the date on which CC.214/88 was disposed of. Hence, the question of ordering reinstatement of the applicant does not arise.

6. Then the learned counsel for the applicant requested for permission to amend this OA to pray for quashing order of dismissal. But when the employee has a right of preferring appeal against order of dismissal, the Tribunal does not entertain an application challenging order of dismissal unless there are compelling reasons.. No such reasons exists in this case. Hence, the request for amending this OA so as to enable the applicant to challenge order of dismissal is refused.

7. We make it clear that if the applicant intends to prefer an appeal against order of dismissal, if so advised, the order dismissing this OA will not be a bar for preferring such an appeal, and of course in such case it is for the appellate authority to consider on merits about the delay in preferring an appeal when the appeal is preferred alongwith the application condoning delay.

8. In the result, the OA is dismissed. No costs.

CERTIFIED TO BE TRUE COPY


Date..... 16/10/03
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

stated for the applicant that ~~an~~ ^{an} NBW was pending against him, and he could not participate in the Departmental inquiry. But it is stated that after bail was granted, trial of CC.214/88 was proceeded with ^{The} ~~the~~ plea of the respondent that every month the applicant was collecting subsistence allowance from the office of the respondent, for the period up to the end of August, 1988, was not refuted for the applicant. The case of the respondent is that after Ex-parte Inquiry, the applicant was dismissed from service as per order dated 26-9-1988. While it is stated for the respondent that the said order was sent by Registered Post Acknowledgement Due, it is stated for the applicant that it was not received. It is admitted for the applicant that he received the balance of the subsistence allowance and arrears of DA and Bonus on 11-9-1989 by collecting the same at the office of the respondent at Mancheryal.

3. CC.214/88 on the file of JFCM, Asifabad, ^{ended} handed an acquittal by judgement dated 20-8-1991. This OA was filed praying for a direction to the respondent to reinstate the applicant into service from the date he was placed under suspension consequent to exoneration by the Criminal Court with all the consequential benefits.

4. It is well established that there can be disciplinary inquiry in regard to the very misconduct in ^{regard to} which a charge sheet is filed in the criminal case. The question as to whether the disciplinary inquiry has to be deferred or stayed pending disposal of the criminal case depends upon the request of the delinquent employee, and if such a request is made, the same has to be considered on merits.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA.121/92

date of decision : 2-9-1993

K. Shobha Prasad

: Applicant

versus

The Supdt. of Post Offices
Adilabad Division
Adilabad

: Respondent

Counsel for the applicant

: S. Ramakrishna Rao
Advocate

Counsel for the respondent

: N.R. Devaraj

Senior SC for Central Govt.

CORAM :

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATIVE)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri S. Ramakrishna Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondent.

2. The applicant was kept under suspension by order dated 5-9-1986 as disciplinary proceeding was contemplated. Charge memo dated 4-11-1987 was issued. The said charge memo refers to four charges and all of them relate to misappropriation of the amounts relating to various SB Accounts referred to therein. Complaint dated 9-2-1988 in regard to the said offences was given to the police. CC.214/88 on the file of JFCM, Asifabad, was registered on the basis of charge sheet filed by the police after investigation. It is

(4)

Copy to:-

1. The Supdt of Post Offices, Adilabad Division, Adilabad.
2. One copy to Sri. S.Rama Krishna Rao, advocate, CAT, Hyd.
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Rsm/-

Case Number: RP 121192

Date of Judgement: 210/93

Copy made ready on 17/9/93

Ex-Officio (1)

sent to court
S. R. Devaraj

It is not the case of the applicant that he made a request for staying Departmental inquiry pending disposal of the criminal case.

5. The applicant herein was dismissed from service by order dated 26-9-1988 after ex-parte inquiry, and the said order of dismissal was passed long prior to 20-8-1991, the date on which CC.214/88 was disposed of. Hence, the question of ordering reinstatement of the applicant does not arise.

6. Then the learned counsel for the applicant requested for permission to amend this OA to pray for quashing order of dismissal. But when the employee has a right of preferring appeal against order of dismissal, the Tribunal does not entertain an application challenging order of dismissal unless there are compelling reasons. No such reasons exists in this case. Hence, the request for amending of this OA so as to enable the applicant to challenge order of dismissal is refused.

7. We make it clear that if the applicant intends to prefer an appeal against order of dismissal, if so advised, the order dismissing this OA will not be a bar for preferring such an appeal, and of course in such case it is for the appellate authority to consider on merits about the delay in preferring an appeal when the appeal is preferred alongwith the application ^{praying for} condoning delay.

8. In the result, the OA is dismissed. No costs.

CERTIFIED TO BE TRUE COPY,



Date..... 16.11.93

Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

sk

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

R.A./M.A./C.A. NO.

121

ORIGINAL APPLICATION NO.

1087

OF 1993.

TRANSFER APPLICATION NO.

OLD PETN. NO.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided)

Dated: 6/9/93

Counter Signed:



Signature of Dealing Asst.

Section Officer/Court Officer,

Rsm/-

BT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.121/92

date of decision : 2-9-1993

K. Shobha Prasad

: Applicant

versus

The Supdt. of Post Offices
Adilabad Division
Adilabad

: Respondent

Counsel for the applicant

: S. Ramakrishna Rao
Advocate

Counsel for the respondent

: N.R. Devaraj

Senior SC for Central Govt.

CORAM :

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATIVE)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri S. Ramakrishna Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondent.

2. The applicant was kept under suspension by order dated 5-9-1986 as disciplinary proceeding was contemplated.

Charge memo dated 4-11-1987 was issued. The said charge memo refers to four charges and all of them relate to misappropriation of the amounts relating to various SB Accounts referred to therein. Complaint dated 9-2-1988 in regard to the said offences was given to the police. CC.214/88 on the file of JFCM, Asifabad, was registered on the basis of charge sheet filed by the police after investigation. It is

P.S.

38

stated for the applicant that ~~an~~ NBW was pending against him, and he could not participate in the Departmental inquiry. But it is stated that after bail was granted, trial of CC.214/88 was proceeded with ^{the} ~~pleas of~~ the respondent that every month the applicant was collecting subsistence allowance from the office of the respondent, for the period up to the end of August, 1988, was not refuted for the applicant. The case ~~of~~ of the respondent is that after Ex-parte Inquiry, the applicant was dismissed from service as per order dated 26-9-1988. While it is stated for the respondent that the said order was sent by Registered Post Acknowledgement Due, it is stated for the applicant that it was not received. It is admitted for the applicant that he received the balance of the subsistence allowance and arrears of DA and Bonus on 11-9-1989 by collecting the same at the office of the respondent at Mancheryal.

3. CC.214/88 on the file of JFCM, Asifabad, ^{ended} handed an acquittal by judgement dated 20-8-1991. This OA was filed praying for a direction to the respondent to reinstate the applicant into service from the date he was placed under suspension consequent to exoneration by the Criminal Court with all the consequential benefits.

4. It is well established that there can be disciplinary inquiry in regard to the very misconduct in ^{regard to} which a charge sheet is filed in the criminal case. The question as to whether the disciplinary inquiry has to be deferred or stayed pending disposal of the criminal case depends upon the request of the delinquent employee, and if such a request is made, the same has to be considered on merits.

(59)

It is not the case of the applicant that he made a request for staying Departmental inquiry pending disposal of the criminal case.

5. The applicant herein was dismissed from service by order dated 26-9-1988 after ex-parte inquiry, and the said order of dismissal was passed long prior to 20-8-1991, the date on which CC.214/88 was disposed of. Hence, the question of ordering reinstatement of the applicant does not arise.

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8. In the result, the OA is dismissed. No costs.

P. T. Thiruvengadam

(P.T. Thiruvengadam)
Member (Admn.)

V. Neeladri Rao
Vice-Chairman

Dated : Sept. 2, 93
Dictated in the Open Court

Dy. Registrar 134

(4)

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Ram/-

maib

Dr. Gales

121/92
O.A. 1087/95

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COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

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

AND

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

AND

THE HON'BLE MR.P.T.TIRUVENGADAM:M(A)

Dated: 2/9/1993

ORDER/JUDGMENT: ✓

M.A/R.A/C.A.N.

O.A. No.

T.A. No.

in
1087/95
121/92
(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions
Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

pvm

