

(6)

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

Application under Sec.19 of the Administrative
Tribunals Act, 1985

(For use in Tribunal's Office)

Date of Filing:-

or

Date of Receipt by post:-

Registration No.

Signature
for Registrar.

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

(Under Sec.19 of the Act 13 of 1985)

O.A.NO. 143 of 1992

Between:-

S.Fayuzuddin, son of Saifuddin,
aged about 32 years, Ex.EDDA,
Maddikera Sub-post Office, r/o.
Maddikera, Dhone Mandal,
Kurnool district.

.. Applicant

and

1. Sub-divisional Inspector (P) Dhone of sub-division, Dhone, Kurnool district. *Reportant & party*
2. Superintendent of Post Offices, Kurnool division, Kurnool-1. .. Respondents

DETAILS OF APPLICATION:-

1. Particulars of the Applicant:-

i) Name of the Applicant : S.Fayuzuddin.

ii) Name of the Father : Saifuddin.

iii) Designation and Office in which employed. : Ex.EDDA, O/o.Sub-divisional Inspector (P) Dhone, Sub-division, Dhone, Kurnool district.

(f)

iv) Office Address : Office of Sub-divisional Inspector (P) Dhone, sub -division, Dhone, Kurnool district.

v) Address for service: M/s. S.Lakshma Reddy & P.Jawahar Raju.& S.Rajeshwar Reddy. 3-4-548/3, behind YMCA, Narayanaguda, Hyderabad-29

2. Particulars of the Respondents: The particulars and address for service of all notices and processes on the above named Respondents is as stated in the cause title.

3. Particulars of the Order against which application is made:

The Application is against the following Order:-

i) Order no. : 1) Memo.no.F3-2/85/D dated at Kurnool-1
2) Memo.no.PF/EDDA/Maddikera dated at Dhone

ii) Date : 1) 15-6-1990 (P-eno. 4)
2) 15-5-1989 (P-eno. 1)

iii) Passed by : 1) Superintendent of Post Offices, Kurnool division, Kurnool-1, 2nd respondent
2) Sub-divisional Inspector (Postal) Dhone sub-division, Dhone-518 222, 1st respondent.

iv) Subject in brief: Questioning the removal of the Applicant from service.

4. Jurisdiction of the Tribunal:-

The Applicant declares that the subject matter of the Ordersagainst which he seeks redressal is within the jurisdiction of the Tribunal under Sec.14(b) of the Tribunals Act, 1985, as the orders were passed by the respondents.

5. Limitation:-

The Applicant further declares that the application is within the limitation prescribed in Section 21.of the Administrative Tribunal's Act, 1985.

: 3 :

6. Facts of the case:-

a) The Applicant was appointed as EDDA at Maddikera Sub-post Office on 3-1-1974. After putting in service of 14 years unblemished service, the 1st respondent has issued a Charge Memo.no.PF/EDDA/Maddikera dated 7-10-1987 under rule 8 of the EDA (C&S) Rules, 1964 alleging that the Applicant has de-frauded the Money order payees by signing as witness etc., and thereby committed mis-conduct and mis-behaviour. The Applicant has submitted his defence denying the charges. On 16-9-1987 an enquiry was conducted into charges. The 1st respondent without even furnishing copy of the Enquiry report to the Applicant, has straight away passed the impugned removal order. The impugned order simply discloses that the Disciplinary Authority agreed with the opinion of the Enquiry Officer and found the Applicant unsuitable to continue in service and thereby passed the order of removal from service with immediate effect by proceedings in Memo.no.PF/EDDA/Maddikera dated at Dhone (P-1) dated 15-5-1989. The removal order is a non-speaking order. The Enquiry report is enclosed along with the order of removal only. Against the order of the removal, the Applicant has filed an appeal before the 2nd respondent on 1-7-1989 (P-8) raising several objections both legal as well as factual. The 2nd respondent has confirmed the order of the Disciplinary authority on an erroneous view of law and facts. ~~and~~ Aggrieved by the same the Applicant filed this O.A.

b) The Applicant submits that the respondents have denied the reasonable opportunity to him in violation of the procedure prescribed under rule 14 of the C.C.S. (C.C.A) rules, 1965 particularly rule 14 (15) and rule 14 (18) as narrated by the Applicant in his grounds of Appeal. The Applicant submits that the respondents have arbitrarily

and without any justification has fixed the liability on the Applicant on an erroneous view of facts on record and thereby committed illegality resulting in ~~was~~ injustice to the Applicant. The Applicant submits that he was not furnished of the copy of the Enquiry report before passing the impugned removal order by the 1st respondent and the same has resulted in depriving the Applicant's reasonable opportunity to be effected and the same is violative of Article 311 (2) of the Constitution of India. The Applicant further submits that the view taken by the 2nd respondent holding that he is bound by the O.M.No.11012/13/85 Estt.(A) dated 26-6-1989 and communicated by the D.G.Posts in his letter no.15/19/89 Vig.III dated 26-6-1989, stating that the furnishing of the Enquiry report before passing the punishment order applies only from the date of the Office Memo. prospectively is totally contrary to law declared by the Judgment of the Hon'ble Central Administrative Tribunal in T.A.No.2/86 dated 6-11-1987 (Premanath K.Sarma Vs.Union of India) and hence the impugned orders are liable to be set aside by holding that they are passed in violation of Article 311 (2) of the Constitution of India. The Applicant submits that he has not committed any mis-conduct or mis-behaviour as alleged against him and neither he has ~~not~~ de-frauded any Money order payees. He was not given reasonable opportunity by the Enquiry Officer to prove his innocence.

7. Relief sought:-

In view of the foregoing facts and circumstances the Applicant prays for the following reliefs:-

- a) the Hon'ble Tribunal may be pleased to call for the records relating to

the order in Memo.no.F3-2/85/D dated at Kurnool-1
(P-Geno-4)
the 15-6-1990 of the 2nd respondent and order in
Memo.no.PF/EDDA/Maddikera at Dhone dtd 15-5-1989
of the 1st respondent, and set aside the same and
grant consequential benefits to the Applicant;
and to pass such other order or orders as this Hon'ble
Tribunal may deem fit and proper in the circumstances of
the case.

8. Interim Relief sought for:-

Pending the above Application, the Hon'ble Tribunal
may be pleased to fix an early date of hearing of the above
Original Application and to pass such other order or orders
as this Hon'ble Tribunal may deem fit and proper in the
circumstances of the case.

9. Details of remedies exhausted:-

The Applicant submits that he has no other effective
or efficacious alternative remedy except to approach this
Hon'ble Tribunal for redressal of his grievance.

10. Matter not pending with any other Court etc:-

The Applicant further declares that the matter
regarding which this application has been made is not
pending before any Court of law or any other authority
or any other Bench of the Tribunal.

11. Particulars of Bank draft/Postal order in respect of
the Application fee:-

i) Number of Indian Postal order: & 03 893344
ii) Name of the Issuing Post office: C.P.O. Amlid.
iii) Date of issue of Postal order: 11-2-92
iv) Post Office at which payable: - C.P.O. Amlid. teyad.

J.P. - 50 - A
C.P.O./R.C./D.O./Removed

(11)

: 6 :

12. Details of index:-

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:-

The entire list of enclosures were filed as material duly indexing the same.

V E R I F I C A T I O N

I, S.Fayazuddin, Son of Saifuddin, aged about 32 years, Ex-EDDA Maddikera sub-post office, r/o.Maddikera, Dhone Mandal, Kurnool district, the above named Applicant, do hereby verify that the contents in paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

S. Fayazuddin

SIGNATURE OF THE APPLICANT

Rajendra Reddy
COUNSEL FOR THE APPLICANT

PLACE: HYDERABAD

DATE: 26-1-1992

To

The Registrar,
Central Administrative Tribunal,
Hyderabad.

(12)

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

O.A.NO. of 1992

Between:-

S.Fayazuddin. ... Applicant

and

Sub-divisional Inspector (P) Dhone
sub-division, Dhone, Kurnool district
and another. ... Respondents

MATERIAL PAPERS INDEX

s.no.	date	description	page no.
1.	A-1 15-5-1989	Memo.no.PF/EDDA/Maddikera dated at Dhone the 15-5-1989 of the Divisional Inspector (Postal) Dhone sub-division, Dhone-518 222.	.. 1-3
2.	A-2 15-6-1990	Memo.no.F3-2/85/D dated at Kurnool-1 the 15-6-90 of the Superintendent of Post Offices, Kurnool division, Kurnool-1... 4-7	
3.	A-3 1-7-1989	Representation of the Applicant to the Superintendent of Post Offices, Kurnool. .. 8-14	

Hyderabad

dt. 26-1-1992

Rajendra Reddy
Counsel for the Applicant

(13)

Annexure-1

Department of Posts - India

Office of the Sub-Divisional Inspector (Postal) Dhone
Sub-division: Dhone-518 222.

Memo.no.PF/EDDA/Maddikera dated at Dhone the 15-5-1989.

PROCEEDINGS

Read the following:-

1. Memo.no.EDDA/Maddikera dt.4-9-87 of S.D.I(P) Dhone.
2. R.L.acknowledgement of the official in token of receipt of the memo. dated 7-9-87.
3. His defence denying the charge dt.16-9-87.
4. Inquiry Officer's report.
5. Other connected records.

.....

1. Sri S.Fiyazuddin, EDDA, Maddikera was proceeded against Rule 8 of P&T EDAs (Conduct and Service) Rules, 1964 under this office Memo.no.PF/EDDA/Maddikera dated 4-9-87 for alleging misconduct or misbehaviour. He was asked to submit his defence within 10 days of the receipt of the Memo. The memo. was received by him on 7-9-87, he submitted his defence on 16-9-87 denying the charges.

2. The charges framed against him are as follows:

ARTICLE-1

That the said Sri S.Fiyazuddin, while working as EDDA, Maddikera during the year 1985 has affixed his signature as a witness in the following Money Order paid vouchers purported to have been paid to the payees, who were reported to have died long back and the values of these Money orders have been defrauded.

Sl.no.	MO No.	Date of issue	Office of issue	Amount	Date of payment	Name of Payee.
--------	--------	---------------	-----------------	--------	-----------------	----------------

1.	1967	9-7-85	Exptl.SO AD;1503	Rs.120/-	11-7-85	Baineni Chennamma Maddikera.
----	------	--------	------------------	----------	---------	------------------------------

2.	1970	-do-	-do-	Rs.120/-	-do-	Gaddala Harijana nara-samma,-do-
----	------	------	------	----------	------	----------------------------------

14

: 2 :

3. 2060 10-7-85 Exptl.SO Rs.120/- 12-7-85 Attar Hayat
AD-1503 bi,
Maddikera.

Therefore it is alleged that the said Sri S.Fiyazuddin, had connived with the Postman, Maddikera 6 x SO furtherance of the M.O. frauds to defraud the department and thereby failed to maintain absolute integrity as required by Rule 17 of E.D. Agents (Conduct and Service) Rules, 1964.

Article-II

That the said Sri S.Fiyazuddin while functioning as EDDA Maddikera SO during the year 1985 has affixed his L.T. Mark in the place provided for the payees and also signed as witness in the following money orders which were purported to have been paid to the payees and the values of these Money orders have been defrauded.

Sl.no	MO No.	Date of issue	Office of issue	Amount	Date of payment	Name and address of payee
1.	966	29-6-85	Kurnool	Rs.90/-	3-7-85	Laxmamma, w/o Chippagiri Nagappa, Maddikera.
2.	1413	15-7-85	Kurnool Camp 'B'	Rs.90/-	17-7-85	Dasari Hanumakka, w/o. D.Anjanaiyah
3.	1415	-do-	-do-	Rs.90/-	-do-	Boya Sunkamma, w/o. B.Rangaiah.
4.	3443	13-7-85	Kurnool	Rs.90/-	19-7-85	Boya Lingamma, w/o. Boya Muthyalappa.

Thus the said Sri S.Fiyazuddin has contravened the provisions of Rule 706 (4) of P& T Man, volume VI part-III and further it is alleged that the said Sri S.Fiyazuddin has connived with the SPM and the Postman of Maddikera SO in defrauding

15

the payees and thereby failed to maintain absolute integrity and devotion to duty as required by Rule 17 of the E.D. Agents (Conduct and Service) Rules, 1964.

3. Since he denied the charge personal inquiry was ordered to be made and Sri M.P.Muthyalappa, ASPO(R) Kurnool, was appointed as Inquiry Officer by the undersigned and Sri K.Subbaramaiah, I.P.O(C) Kurnool as P.O. was asked to present the case.

4. The report of the Inquiry Officer was received on 20-4-1989 a copy of which is enclosed. Having gone through the report of the I.O. and the connected records I have no hesitation in agreeing with the opinion of the Inquiry Officer that the charges against the E.D.agent have been categorically proved. The charges being of serious nature making him unsuitable to continue in service, I, P.Muni Rathnam, Sub-Divisional Inspector (P) Dhone hereby order that Sri S.Fiyazuddin, EDDA, Maddikera is 'Removed' from service with immediate effect.

Sd/- P.MUNI RATHNAM
Sub-Divl.Inspector (Postal)
Dhone sub-division

Sd/- Sub-divl.Inspector (P)
Dhone sub-dn.

//True copy//



(6)

Annexure-2

: 4 :

DEPARTMENT OF POSTS - INDIA

Office of the Supdt. of Post Offices, Kurnool divn. Kurnool-1

Memo.no.F3-2/85/D dated at Kurnool-1 the 15-6-90

Read the following:-

- 1) Appeal dated 1-7-1989 of Shri S.Fiyajuddin, Ex.EDDA, Maddikera.
- 2) Memo.no.PF/EDDA/Maddikera dated 4-9-1987 of S.D.I.(P) Dhone Sub-division, Dhone.
- 3) Other connected records.

PROCEEDINGS:

Shri S.Fiyazuddin, Ex.E.D.D.A. Maddikera in his representation dated 1-7-1989 had appealed against the order of removal from service with immediate effect imposed by the S.D.I. (P) Dhone sub-divn., Dhone, vide Memo.no.PF/EDDA/Maddikera dated 4-9-1987. The appellant was proceeded against under Rule 8 of P & T E.D.As (Conduct & Service) rules, 1964 for certain irregularities when he was working as E.D.D.A. Maddikera. The lapses were gisted in the statement of imputations enclosed to the Memo. cited which had ended in the punishment now appealed against.

2) The Appellant in his representation makes the following points:

- i) The disciplinary authority has not followed the prescribed procedure of furnishing a copy of the I.Os. report to the Appellant & then deciding the case after taking the representation of the appellant into consideration. He has also cited that A.P.Bench of C.A.T. had set aside the order in the case of Shri P.S. Guruvaiah, V/S Supdt. of Post Offices and D.P.S., N.R. on the above ground.

ii) The I.O. has not given the appellant an opportunity to explain his statement dated 6-10-85 which had been formally admitted as Exp.16 in violations of rule 14 (18) of C.C.S.(CCA) Rules, 1965.

iii) The I.O. has permitted two additional witness not cited in Annexure-IV in the contravention of the procedure envisaged in Rule 14 (15).

iv) Placing reliance on the evidence of Sri A.Savaraiah, S.P.M., Maddikera & T.Narayana Postman, Maddikera, Principal persons who are responsible for the alleged fraudulent payments particularly that of Sri T.Narayana, Postman, Maddikera, is totally illegal and total negation of principles of natural justice.

v) The evidence relied upon is totally incongruent and is inadmissible.

I have carefully gone through the appeal dated 1-7-89 ~~and~~ submitted by the Ex.E.D.D.A. and all other connected records of the case. I have also carefully gone through the grounds of appeal mentioned by the Official.

The contention of the appellant in para 1 of the grounds of appeal that the orders of removal issued by the S.D.I. (P) Dhone are illegal cannot be accepted. An enquiry in the case as envisaged in the P&T Agents (Conduct and Service) Rules, 1964 was duly and properly conducted by the inquiry Officer. It was only a departmental enquiry and not a judicial inquiry. As such the I.O. was not forced to take into account judgments delivered by courts in some cases. The point for consideration is whether the appellant was given a reasonable opportunity to disprove the charges and whether the inquiry was held in accordance with the provisions

of ~~the~~ P & T E.D. Agents (Conduct & Serv.

A perusal of the case file and report of the I.O. shows that both the conditions were satisfied. The disciplinary authority issued the punishment order after considering the report of the inquiry authority. The contention of the appellant that a copy of the report of the I.O. should have been issued to him before taking a final decision in the case cannot be accepted. Such a Rule/Rdg. did not exist on 15-5-89 when orders were issued by the Disciplinary authority removing the appellant from service. Instructions to the effect that a copy of report of I.O. should be furnished to the E.D. Agent before issuing final orders were issued only in O.M.No.11012/13/85 Estt.(A) dated 26-6-1989 and communicated by the D.G.Posts in his letter no. 15/19/89 Vig.III dated 26-6-89. In para 4 of the O.M. under reference it was stated that these instructions will operate prospectively from the date of issue and will apply only in cases where the disciplinary authority is yet to pass orders and that past cases need not be reopened for consideration. In this case the final orders were issued by the Disc. authority on 15-5-89 before the issue of the O.M. mentioned. Hence there is no irregularity and the issue of orders on 15-5-1989 is not illegal.

The other points mentioned in the grounds of appeal cannot be accepted. He could have explained all his points and disproved charges if possible during the inquiry which was properly held as per the rules on the subject.

After considering all aspects of the case I found that orders issued by the S.D.I(P) Dhone in his Memo.no. PF/EDDA/Maddikera dated 15-5-89 removing the appellant from

: 7 :

(19)

service are in order, and I find no reasons to interfere with the orders issued by the S.D.I (P) Dhone. The appeal is rejected.

Sd/- M.RANGANNA

SUPDT. OF POST OFFICES:
KURNOOL DIVISION:
KURNOOL-1-

To

Shri S.Fiyazuddin,
Ex.E.D.D.A.
Maddikera.

A copy of this memo. is issued to:-

1 & 2 The Post Master, Adoni H.O. with a spare copy to
Director of Accounts (Postal) Hyderanad-1

(3)Rectt. Branch Divisional offices, Kurnool, for information

(4)Vigilance Register.

(5)The S.D.I (P) Dhone, for information.

Sd/- M.Ranganna
Supdt. of Post Offices,
Kurnool division,
Kurnool-1

//True copy//

