

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.180/92

date of decision : 17-8-1993

Between

K. Janardhan Rao : Applicant

and

1. The Supdt. of Post Offices
Nalgonda Division
Nalgonda

2. The Director of Postal Services
Hyderabad Region
Hyderabad

3. The Post Master General
Hyderabad Region
Hyderabad

: Respondents

Counsel for the applicant : S. Ramakrishna Rao
Advocate

Counsel for the respondents : N.V. Ramana, Addl. SC
for Central Government

CORAM

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

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

Judgement

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

Heard Sri S. Ramakrishna Rao, learned counsel for the applicant and Sri V. Rajeswara Rao, ~~for~~ Sri N.V. Ramana, learned counsel for the respondents.

2. The applicant was Postal Assistant by the time he was compulsorily retired on 27-6-1990 by way of punishment. The appeal ^{against} ~~in which~~ the ^{of} ~~above~~ order ^{was} compulsory retirement punishment was dismissed. The same ~~is~~ challenged in OA.73/91

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on the file of this Bench. Therein it was held that the ~~authority~~ who passed order of compulsory retirement was not competent to pass the order of major penalty and accordingly the order of compulsory retirement was set aside by order dated 27-2-91. In the said order it was observed that the order therein would not preclude the competent Disciplinary authority from continuing the disciplinary case against the applicant on merits from the stage of setting aside the order of penalty imposed on the applicant and to pass appropriate orders according to law. In pursuance of the order therein the applicant was reinstated on 28-2-1991.

3. The date of retirement of the applicant on attaining the age of superannuation was 31-3-1991. The applicant was informed by memo dated 21-3-1991 that 'consequent on attaining age of 58 years by 31-3-1991, Sri K. Janardhan Rao, PA, Nalgonda HO, (the applicant herein) is ordered to be retired from service on superannuation on the afternoon of 31-3-1991.' The competent authority passed the order of compulsory retirement as per memo No. RDH/ST/21-3/31/90 dated 22-3-1991 and it was tendered to the applicant on 31-3-1991 by the Post Master, Nalgonda. But the applicant refused to receive it. Then memo dated 8-4-91 was issued to the effect that the memo dated 22-3-1991 was assumed to have been served on the afternoon on 31-3-1991. It is stated for the applicant ^{him} ~~that~~ it was actually served on (the applicant) on 10-4-1991.

This OA was filed praying for setting aside the order of compulsory retirement as per memo dated 22-3-1991 and to direct the respondents to pay the arrears of pay and allowance for the period of absence ^{from} 27-6-90 till the date of retirement i.e. 27-2-1991 with all consequential benefits and to release the pension from 1-4-1991 onwards.

22/10/91

4. It is submitted that during the pendency of this OA pension was released and hence the OA had become infructuous in regard to the above relief.

5. When the applicant refused to receive the memo dated 22-3-1991 whereby compulsory retirement was ordered when it was tendered on the afternoon of 31-3-1991, the respondents were justified in issuing the memo dated 8-4-1991 to the effect that the memo dated 22-3-1991 was deemed to have been served ~~on~~ the applicant on the afternoon of 31-3-1991. The applicant had not come forward with any ^{new} plea to challenge the order of compulsory retirement as per memo dated 22-3-91 either on merits or on technical grounds. Hence, the same has to be held as valid.

6. Rule 10(4) of CCS (CCA) Rules provides that in case of setting aside or rendering void of a penalty of dismissal, removal or compulsory retirement from service, and if the disciplinary authority decides to hold enquiry against such Government servant on consideration of circumstances of the case, on the very allegation on which the penalty of dismissal, removal, or compulsory retirement was originally imposed, then the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of original order of dismissal, removal or compulsory retirement and ^{to} ~~so~~ continue to remain in suspension until further orders.

7. In this case, the applicant was compulsorily retired from service as on 27-6-1990 in pursuance of the order of punishment dated 26-6-90. When the same was set aside by order dated 27-2-1991 in OA.73/91, on the ground that the ~~authority~~ who passed order dated 26-6-1990 was not competent to pass it, the applicant was reinstated on 28-2-1991. But

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even while disposing OA. 13/91, the Bench observed that the Disciplinary authority is free to continue the inquiry. In this case, the disciplinary authority continued the inquiry and passed order of punishment by way of compulsory retirement. Thus it is a case where ^{Rule} 10(4) of CCA Rules is attracted. It is submitted for the applicant that he was paid subsistence allowance for the period from 26-6-1990 to 27-2-1991. Hence, the applicant is not entitled to any relief.

8. The OA is ^{accordingly} dismissed. No costs.

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

V. Neeladri Rao
(V. Neeladri Rao)
Vice-Chairman

Dated : August 10, 93

Dictated in the Open Court Deputy Registrar

To

1. The Superintendent of Post Offices, Nalgonda Division, Nalgonda.
2. The Director of Postal Services, Hyderabad Region, Hyderabad.
3. ^{sk} The Post Master General, Hyderabad Region, Hyderabad.
4. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N.V. Ramana, Addl. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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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. GORTHY : MEMBER (A)

AND

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

AND

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

Dated: 17-8-1993

~~ORDER/JUDGMENT:~~

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

in

O.A.No.

180/92

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.

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