

(61)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 24/92.

Dt. of Decision : 6-9-1994.

D. Muthyam Reddy

.. Applicant.

vs

1. Union of India rep. by
the Secretary to Government,
Department of Post,
New Delhi.
2. The Member (P) Postal Service
Board, New Delhi.
3. The Chief Post Master General,
Hyderabad.
4. The Post Master General,
Hyderabad Region, Hyderabad.
5. The Superintendent of Post Offices,
Medak Division, Medak.
6. Shri G. Srinivasa Rao

.. Respondents.

Counsel for the Applicant : Mr. K.S.R. Anjaneyulu

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

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

257
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O.A.No.24/92.

Date of Judgement :

Judgement

(As per Hon'ble Shri A.B.Gorthi, Member(A))

The Applicant while working as Sub-Postmaster, Ibrahim-nagar was served with a charge memo dt. 17.5.85 under rule 16 of the CCS (CCA) Rules, 1965. The allegation in the charge memo was that the Applicant had applied for the post of Postal Assistant on 11.9.80 against the S.T. quota by producing a bogus S.T. certificate. In his defence statement the Applicant pleaded for mercy. The disciplinary authority vide his order dt. 17.6.85 imposed the minor penalty of stoppage of next increment for a period of two years without cumulative effect. A further direction was given that the Applicant would be treated as a candidate belonging to O.C. for all purposes. After a lapse of a period of five years, the Member(P), Postal Services Board, vide ~~his~~ impugned order dt. 7.6.90 remitted the case to the disciplinary authority for de novo proceedings from the stage of issue of charge sheet under rule 14 of the CCS (CCA) Rules, 1965. The said order was issued by the Member(P), Postal Services Board in exercise of the powers vested in him under rule 29 of the CCS (CCA) Rules, 1965 as he had come to the conclusion that the charge was too grave to be disposed of with only a minor penalty.. Aggrieved by the same, the Applicant has filed this O.A. praying that the impugned order dt. 7.6.90 of the Member(P), Postal Services Board be set aside together with the charge memo that was subsequently issued by the Supdt. of Post Offices, Medak for holding an enquiry under rule 14 of the CCS (CCA) Rules, 1965.

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21/10/1992

2. In their reply affidavit the Respondents clarified that the Member(P), Postal Services Board was the competent authority to exercise powers under rule 29 of the CCS (CCA) Rules, 1965 and that the said power ~~could~~ be exercised at any time, ^{could} ~~be~~ ^{any time,} justifiable reasons.

3. When the case came up for admission, an interim order was issued staying the departmental enquiry against the Applicant.

4. The learned counsel for the Applicant has drawn our attention to the judgement dt. 12.6.91 in O.A.No.837/90 of this bench of the Tribunal ^{and urged} that, except for minor variations with regard to dates etc., the case of the Applicant therein is similar to the Applicant before us. It was held therein that the delay in exercising the powers under rule 29 of the CCS (CCA) Rules, 1965 was unreasonable. In coming to that conclusion, the Tribunal placed reliance on the judgement of the Hon'ble Supreme Court in New Delhi Municipal Committee Vs. Om Prakash & Ors. AIR 1977 SC 2134. Commenting on Section 67 of the Punjab Municipal Act which permits the Municipal Committee to amend the list of assessment "at any time", the apex court observed that the width of this power may justifiably be curtailed by reading the expression "at any time" to mean "within a reasonable time". Accordingly, the Tribunal allowed O.A.No.837/90 with the following observations:

"In view thereof the applicant has served out the punishment imposed upon him and the enquiry proceedings against him had reached a finality. It was therefore not open to the revising authority to reopen the enquiry in exercise of the powers of revision. We would therefore hold that the action of the second respondent in seeking to exercise revisionary powers under rule 29(1) of the CCS(CCA) Rules, 1965 is liable to set aside both on the ground that there has been unreasonable unexplained delay and also since the applicant had served out the punishment

We accordingly set aside the order passed in letter No.2/101/89.Vig.III dt. 8.6.90 passed by the second respondent and the consequential orders in Memo No.B.66/III dt. 16.8.1990 passed by the 4th respondent. The application is accordingly allowed. The parties are directed to bear their own costs."

5. As we are in full agreement with the observations of the Tribunal in O.A.No.837/90 and as we are satisfied that the case of the Applicant before us is similar to that of the Applicant in O.A.No.837/90, we see no reason why this O.A. should not be similarly disposed of.

6. In the result, the O.A. is allowed and the impugned order dt. 7.6.90 issued by the Member(P), Postal Services Board as also the memo dt. 16.8.90 issued by the Supdt. of Post Offices, Medak are hereby set aside.

7. No order as to costs.


(A.B.Gorthi)
Member (A).


(A.V.Haridasan)
Member (J).

Dated: 6 Sept., 1994.

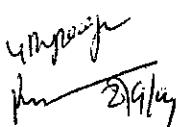
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Anil Ray, 12894
DEPUTY REGISTRAR (J)

Copy to:

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2. The Member(P) Postal Service Board, New Delhi.
3. The Chief Post Master General, Hyderabad.
4. The Post Master General, Hyderabad Region,
Hyderabad.
5. The Superintendent of Post Offices, Medak Division, Medak.
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7. One copy to Mr.N.R.Devraj, Sr.CGSC, CAT, Hyderabad.
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YLKR


Anil Ray
12894

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Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN: MEMBER(J)

AND

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

Dated: 6.9.94

ORDER/JUDGMENT.

M.C.P./C.P.NO.

in
O.A.NO. 24/92

T.A.NO.

(W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as Withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

No spare copy

(9)

