

(9)

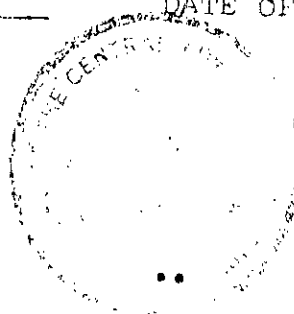
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD.

O.A. NO. 270/92

DATE OF JUDGMENT: 7-6-95

BETWEEN:

R. Narasimhulu.



.. Applicant.

and

1. The Senior Superintendent of Post Office,  
Adilabad.
2. The Director of Postal Services,  
Hyderabad Region, Hyderabad.
3. Union of India rep. by Secretary,  
Dept. of Posts, Govt. of India,  
New Delhi.

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI S. Ramakrishna Rao.

COUNSEL FOR THE RESPONDENTS: SHRI N.V. Ramana, Addl. CGSC.  
Sr./Addl. CGSC

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI A.B. GORTHY, MEMBER (ADMN.)

CONTD....

O.A.No.270/92

JUDGEMENT

( As per Hon'ble Sri Justice V. Neeladri Rao, V.C. )

The main imputation alleged as against the applicant as per the charge Memo. dt.6-1-88 issued to him is that while functioning as DPM (SB) Mancherial HO he received an application for revival alongwith passbook in respect of silent SB A/c No.40486 of Bellampalli LSG SO standing in the name of Smt. Y.Grace Sarojini and made the revival endorsement entries addressed to the UDC (SBCO) Mancherial HO on 4-6-85 duly signed but he did not handover that application to the SBCO on the pretext that the UDC (SBCO) Mancherial was not available; and the orders for revival of that account were written by him and got signed by Sri A.Raja Rao the then Postmaster, Mancherial on 5-6-85 with the same pretext that the UDC (SBCO) Mancherial was not available.

2. The applicant was then working as Dy. Postmaster, Mancherial. The appointing authority for Dy.Postmaster is Director of Postal Services (DPS for short). The Superintendent of Post Offices (SPO for short) issued charge memo. dt.6-1-88 and after the enquiry was conducted and after considering the explanation of the applicant in regard to report of the Inquiry Officer, the SPO passed the order dt.13-6-90 imposing compulsory retirement - one of the major penalties. The applicant

W

preferred an appeal to DPS against the said order. One of the contentions raised for the applicant herein in the appeal is that the SPO is an authority lower than the appointing authority and hence he is not competent to pass an order by imposing major penalty. The same was upheld by the Appellate Authority. The appeal was disposed of by directing the SPO to submit the record under Rule 14(21) of CCS (CCA) Rules. The applicant filed O.A.No.830/90 challenging the above orders. The said O.A. was disposed of by order dt. 15-2-91. The relevant portion therein which is material for consideration of this O.A. reads as under:-

"In view of these infirmities, both the order of punishment dt.13-6-90 and the appellate authorities order dt.11-9-90 are set aside. The applicant who was compulsorily retired from service is directed to be reinstated to duty. This order passed by us however, will not preclude the competent disciplinary authority from considering 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. With these directions the application is allowed. No order as to costs."

In compliance of the above order, the applicant was reinstated on 12-3-91. The SPO submitted the inquiry record and the enquiry report to the DPS u/r 14(21) of the CCS (CCA) Rules. The DPS after consideration of the material on record and also after giving the opportunity to the applicant to make his representation, ordered compulsory retirement of the applicant from service by way of punishment. The same is assailed in this O.A.

72

3. The two main contentions for the applicant are:

(i) it is not open to the SPO to take a decision about the continuation of the enquiry and it is for DPS to take such a decision, and DPS cannot act on the basis of the inquiry record and the inquiry report which had arisen on the basis of the disciplinary proceedings initiated by SPO.

(ii) the duty of the applicant is to merely verify the balance standing in the Account of concerned account holder, and it is not his duty to verify as to whether the application for revival was filed by the account holder, and it is the duty of the authorities of Bellampalli SPO to consider about it and even the question of identity of the account holder arises only at the time of payment on the basis of the application for withdrawal of the amount standing to the credit of the account holder.

4. We cannot accede to either of the two contentions. It is evident from the extracted portion of the order in OA 839/90 that the Tribunal made it clear that the said order will not preclude the competent disciplinary authority from considering the disciplinary case against the applicant on merits from the stage of setting aside order of penalty imposed on the applicant. It is thus clear that what was set aside is the order of punishment and the inquiry proceeding was not quashed. It is not the case of the applicant that SPO is not competent to initiate disciplinary action against the applicant; but as he happened to be an authority below the appointing authority in regard to the post which

13

then occupied by the applicant, it is stated that the SPO had no power to order major penalty. Accordingly, it was set aside by order dt.15-2-91 in OA 839/90.

5. The learned counsel for the applicant relied upon the judgement of Ernakulam Bench reported in 1992 (19) ATC 625 to urge that in all such cases a denova enquiry has to be conducted if the disciplinary authority feels that there is justification for initiation of the denova enquiry when the order of punishment was set aside on technical grounds. But the said Bench had considered the scope of the order of the appellate authority therein, and it was observed as under:

"The appellate authority set aside the penalty on the ground of the incompetence of the DPS to act as disciplinary authority, but granted the DPS liberty to issue fresh proceedings after obtaining the Presidential order."

But the order passed in O.A.839/90 is not to that effect. As such there is no need to consider for disposal of this O.A. as to whether DGPR Memo. No. 44/6/59-Disc., dt.7-8-59, has to be followed even after Rule 14(21) of CCS (CCA) Rules, 1965 had come into effect. The Appellate Authority referred to in the order passed by Ernakulam Bench might have probably relied upon the said Memo and the Tribunal considered the scope of that order. Hence, we cannot accept the contention for the applicant that the Ernakulam Bench had laid down a principle to the effect that if the enquiry had to be conducted, after the order of punish-

14

ment is set aside even when the enquiry proceedings and/or enquiry report was not quashed, it can be by way of denovo enquiry only taken by the SPO in this case is in accordance with the order in OA 839/90. As he felt, that it is a case where a major penalty has to be imposed, he invoked Rule 14 of CCS (CCA) Rules in submitting the report to the DPS, an authority who is competent to pass the order of major penalty. Hence the first contention for the applicant is negatived.

6. The very stand taken by the applicant which is to the effect that the Post Master, Mancherial threatened him to make the endorsement with regard to the revival by stating that he would take the responsibility and hence the applicant made the endorsement suggests that but for the alleged threat he would not have made such endorsement with regard to the revival. If the endorsement for revival was not made, there would not have been any possibility for the person who applied for the revival, to withdraw the amount standing in the name of the account holder referred to i.e. Smt. Grace Sarojini.

7. The contention for the applicant that it is not necessary for the HO at Mancherial to instruct the Branch Office to verify with regard to the identity of the applicant in order to satisfy whether the applicant is the concerned account holder. It is stated to be silent account for 20 years, where the application for revival of such application was filed and if no one in the concerned Post Office or Bank is acquainted with the

15

account holder, it is necessary to insist upon the identity of the applicant who filed the application for revival especially when the amount involved is considerable, for otherwise some unscrupulous persons after getting information about silent accounts, come up with false applications to have unjust impeachment. So, we feel that it is one of the elementary precautions that has to be taken by the Branch Office itself, and for any reason such precaution was not taken by the Branch Office, it is for the Head Office to give proper instructions to the Branch Office to have necessary identification. We feel that there is no need to further advert to this aspect for disposal of this O.A. for the very stand taken by the applicant indicates that he would not have made endorsement for revival, but for the alleged threat of the Post Master of Mancherial under whom he was working. As such the second contention is also negatived.

8. In the result, the O.A. is dismissed. No costs./

CERTIFIED TO BE TRUE COPY

*[Signature]*  
Date..... 16/6/85  
Court Officer  
Central Administrative Tribunal  
Hyderabad Bench  
Hyderabad

SO/-  
HUNKS  
VC

To

1. The Senior Superintendent of Post Office, Adilabad.
2. The Director of Postal Services, Hyderabad Region, Hyderabad.
3. The Secretary, Dept. of Posts, Govt. of India, New Delhi.
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.

pvm

SO/-  
HABG  
KCA