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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
HYDERABAD

O.A.No.395 of 1992

Between:

Syed Mannan Ali

... Applicant

And

Senior Superintendent,  
RMS Hyd. Sorting Division  
and two others.

... Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF ALL THE RESPONDENTS

I, V.V.K.A. Mohan Rao S/o late Madhava Rao aged about 57 years occupation: APMG(S&V) in % CPMG Hyderabad do hereby affirm and state as follows:

1. I am the deponent herein and as such I am fully acquainted with all facts of the case. I am filing this Counter affidavit on behalf of all the respondents herein. The material averments in the O.A. are denied save those that are expressly admitted herein. The applicant is put to strict proof of all such averments except those that are specifically admitted hereunder:
2. The brief facts leading to filing of this case are stated as under:

It is submitted that there were reports about several cases of circulation of Bogus Money Orders during January, '84, purported to have been issued by the Post Offices in Bombay City to the places in twin-cities and Mahabubnagar District through Hyderabad Air Sorting.

In this connection, a complaint was lodged at Police Station, Kachiguda on 25.1.1984. The Inspector of Police(D.D.) CCS Team-X Hyderabad vide letter No.22/ON/T-X/CCS/Hyd dt. 2.3.1984 intimated that Sri Syed Mannan Ali, Mailman (applicant herein) was arrested on 1.3.1984 in connection with insertion of Bogus Money Orders.

Therefore, the applicant was placed under deemed suspension w.e.f. 1.3.84 consequent on applicant's arrest by the police.

सहायक पोस्टमास्टर जनरल

Attestor

Asst. Post Master General

(Saving Bank)

कृते मुख्य पोस्टमास्टर जनरल ऑ. प्र. एम्सडल

For Chief Post Master General I A P. Circle

दस्तावेज संख्या: 100/001

Deponent

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The cases of circulation of Bogus Money Orders were booked under various crime numbers in different courts and finally heard in XXI MM Court Hyderabad with the following Crime Nos.43/89, 44/89, 45/89, 90/89, ~~90/89~~ and 151/89 and Judgement was pronounced on 14.2.1991.

The applicant was acquitted in 4 cases and in respect of CC No.45/89 he was acquitted giving benefit of doubt i.e. on technical ground but not on merit basis. Therefore, on production of copy of judgement, the suspension of the official was revoked by the Respondent No.2 vide his Memo No.PF/S. Mannan Ali dt. 6.3.1991.

The Respondent No.2 vide Memo No.PF/SM Ali dt. 14.6.91 has regularised the period of suspension treating it as duty for the purpose of pension only and pay and allowances for the period were limited to subsistence allowances already paid.

Aggrieved by this, the official appealed to the Respondent No.1. The appeal received from the official was examined thoroughly and rejected vide Memo No.K.10/15/83-84/II dt. 3.2.92 as the applicant is not exonerated in all the crimes by the Court.

In reply to para 6, it is submitted that:

(i) The applicant had joined in service on 28.5.81. He was placed under deemed suspension from 1.3.84 on arrest by the Police. The official has come to adverse notice within the span of 3 years of his service. Therefore, his claim of 'no black scar' in the service is not correct.

The applicant was under deemed suspension on account of arrest by Police for insertion of Bogus Money Orders, w.e.f. 1.3.84 on receipt of information from inspector of Police(DD) CCS Team-X Hyd. letter No.22/ON/T-X/CCS/Hyd. dt. 2.3.1984. A criminal case under Crime No.17/84 was registered at Police Station, Kachiguda.

सहायक पोस्टमार्शर जनरल  
(वेस्ट बँक)  
Asst. At-Lester General  
(Saving Park)

Deponent

There were (5) criminal cases against the applicant. He was not exonerated in all the 5 cases on merits. He was acquitted allowing benefit of doubt in CC No.45/89.

Regularisation of period of Suspension:

The applicant deserved stern action. But in keeping with the circumstances of the case, the period of about 8 years spent under suspension was ordered to be treated as such. However, it was to count for pension in order to make the applicant eligible for full pensionary benefits. This is a bonafide decision of the competent authority.

(ii) The applicant was acquitted allowing him benefit of doubt in respect of CC No.45/89. In this case, the suspension was not erroneous nor it was without basis. The prosecution was launched in all the cases. Acquittal on technical grounds will not make him eligible for full pay and allowances as envisaged under Govt. of India instructions OM No.35014/9/76-Ests. dt. 8.8.1977. The competent authority applied its mind and decided the question of treatment of suspension period judiciously.

In reply to the grounds, it is submitted that:  
(a)&(b):

No disciplinary action against the applicant was initiated by the Department. No punishment either major or minor was awarded to him. The applicant was arrested by the Police and a case was filed against him in the Court by the Police. The Court has acquitted the applicant in 4 cases and in one case he was acquitted by giving benefit of doubt. It means the acquittal was not clean in one case.

~~xxx~~ In view of the facts mentioned above, the question of invoking FR 54<sub>3</sub> (3) does not arise in this case.

(c) & (d): Acquittal on technical grounds either in 'one' or in 'all' cases will have its impact on the character of a person. If there had been no 'prima facie' case the court

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(बचत बैंक)  
Asst. Post Master General  
Attestor  
(Sd/-)

रुते मुख्य पोस्टमास्टर जनरल ऑ. प्र. परिमंडल  
For Chief Post Master General A.P. (C-1)

Deponent

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would have exonerated the applicant in that 'one' case also. The applicant himself has admitted that the court has given 'clean acquittal in 4 cases except 'one' case i.e. in CC No.45/89.

It can, therefore, be seen that the applicant was not fully exonerated of the charges deserving full benefit under FR.54.

(e)(f)&(g): The case was disposed of keeping the facts, circumstances and merits in judicious way with an open mind. The doubt expressed by the applicant regarding interference of 'vested interests' in his case is baseless.

In view of the above submissions, it is clear that the applicant has not made out any case and there is no merit in the O.A.

For the reasons stated above, the Hon'ble Tribunal may be pleased to dismiss the O.A. with costs and pass such other or further orders as it deems fit and proper in the circumstances of the case.

900g  
Déponent

Solemnly and sincerely affirmed  
this 10<sup>th</sup> day of August 1992  
and he signed his name in my presence.

Attestor

Before me  
(बचत बैंक)

Asst. Post Master General  
(Saving Bank)

प्रति मुख्य पोस्टमास्टर जनरल स.प. ब. परिसर  
For Chief Post Master General A.P. (S.B.)  
हैदराबाद/Hyderabad 500 001.