

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.615 of 1992

DATE OF JUDGMENT: 7th DECEMBER, 1992

BETWEEN:

Mr. M.Pentaiah

..

Applicant

AND

1. The Divisional Engineer (Phones),
Postal and Telegraphs Department,
Gowliguda,
Hyderabad.

2. The Assistant Engineer (Phones-II),
Level 5, Telephone Exchange,
Gowliguda,
Hyderabad.

..

Respondents

COUNSEL FOR THE APPLICANT: Mr. K.L.N.Rao

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl.CGSC

CORAM:

Hon'ble Shri R.Balasubramanian, Member (Admn.)

Hon'ble Shri C.J.Roy, Member (Judl.)

contd....

(87)

.. 2 ..

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDL.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 filed by the applicant claiming a relief to quash the order No.AEP/155/DISC/4184/91, dated 21.5.91 issued by the 2nd respondent as violative of Articles 14, 16 and 21 of the Constitution of India and direct the respondents to reinstate him to service or alternatively direct the respondents to pay the subsistence allowance @ 75% along with arrears after a period of three months from the date of suspension and continue to pay at the same rate in accordance with FR 53.

2. The facts that are necessary to determine the case are briefly as follows:-

The applicant while working as Technician in the office of the 2nd respondent, was placed under suspension by an order dated 21.5.1991 of the 2nd respondent. A charge sheet was issued on 26.7.1991 and served on the applicant on 27.8.1991. The applicant gave explanation on 5.9.1991. An Enquiry Officer was appointed on 20.9.1991. Even though more than one year is passed, so far, the Enquiry has not been completed. The applicant states that the delay is not for the reasons attributable to him but to the callous and casual attitude of the respondent reducing the suspension pending enquiry into the punishment. In

contd....

.. 3 ..

accordance with the guidelines issued under Rule 10 of the CCS(CCA) Rules, suspension is to be kept to the minimum period and it is to be reviewed immediately after 3 months and find out whether delinquent is to be continued under suspension or not. He made representations on 22.10.1991, 17.1.1992, 16.4.1992 and 11.5.1992 requesting to revoke the suspension or in the alternative to pay him the subsistence allowance at the enhanced rate of 75%. However, the respondents have not taken any action on the representations nor revoked the suspension order and reinstated him to duty nor paid the subsistence allowance in accordance with the ~~xxx~~ rules. Hence this application.

3. The respondents filed a reply affidavit stating that the applicant did not cooperate initially and he deliberately avoided to take delivery of the charge sheet. The suspension could not be revoked even after periodical review by the competent authority in view of the serious charges levelled against him. The competent authority reconsidered the request of the applicant and passed orders on 25.7.1992 enhancing the subsistence allowance by 50% of the subsistence allowance already being drawn by the applicant. It is stated that the applicant who was charge sheeted for the grave charges cannot be reinstated into service pending final orders in his case. So far as the enhancement of subsistence allowance, the competent authority has already

contd....

... 4 ...

reviewed it and enhanced it by 50% and passed orders on 25.7.1992 and the same is being drawn by the applicant. Hence, the application is devoid of merits and is liable to be dismissed.

4. We have heard the learned counsel for the applicant, Mr. KLN Rao and the learned Additional Standing Counsel for the respondents, Mr. N.V. Ramana. We have also perused the records produced by the learned Additional Standing Counsel for the respondents.

5. During the course of the arguments, the learned counsel for the respondents stated that the applicant is being paid the subsistence allowance @ 75% and the orders to this effect were already passed on 25.7.1992 and hence the application has become infructuous in so far as the prayer of the applicant with regard to the enhanced rate of subsistence allowance @ 75%. With regard to the prayer of the applicant for reinstatement into service, he stated that the disciplinary proceedings against the applicant were completed and the disciplinary authority vide orders dated 14.10.1992 imposed a punishment of reduction to lower stage by four increments from the stage of Rs.1390/- to Rs.1270/- in the time scale of Rs.975-25-1150-EB-30-1660 applicable to the technician for a period of one year with effect from 1.11.92. It was also ordered that the applicant will earn increments of pay during the period of reduction and on expiry of the period, the reduction will not have the effect of postponing

: 5 :

Copy to:-

1. The Divisional Engineer(Phones), Postal and Telegraphs Department, Gowliguda, Hyderabad.
2. The Assistant Engineer(Phones-II), Level 5, Telephone Exchange, Gowliguda, Hyderabad.
3. One copy to Sri. K.L.N.Rao, advocate, Block-6, Flat No.8, HIG OPP. Water Tank, Baghlingampally, Hyd.
4. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
5. One copy to Deputy Registrar (Judl.), CAT, Hyd.
6. One spare copy.
7. Copy to Reporters as per standard list of CAT, Hyd.

Rsm/-

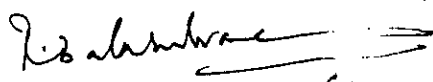
16/10/92
10/12/92

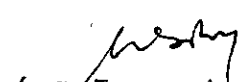
.. 5 ..

his future increments of pay. It was further ordered that the period of suspension from 21.5.1991 to 13.10.1992 be treated as leave applicable to him on his leave application including EOL. Hence, the learned Additional Standing Counsel for the respondents states that the suspension of the applicant stands revoked and the application is liable to be dismissed as infructuous.

6. The learned counsel for the applicant on the other hand states that though the orders were passed enhancing the subsistence allowance vide orders dt. 25.7.1992, the applicant is entitled to the enhanced rate of subsistence allowance, on a periodical review, with effect from 21.8.1991 i.e., immediately after three months from the date of suspension.

7. We find that there is no substance at all in the applicant claiming enhancement of subsistence allowance after final orders in the disciplinary case have been passed. The competent authority has also passed suitable orders on the treatment of the period of suspension from 21.5.1991 to 13.10.1992. This is the final order on the treatment of suspension. Such being the case all other earlier orders pertaining to the period of suspension like the quantum of subsistence allowance etc., automatically merge into this final order. In this case, final orders had been passed as early as 14.10.1992. The application is, therefore, totally devoid of merits and we have no hesitation in dismissing the application with no order as to costs.


(R. Balasubramanian)
Member (A).


(C. J. Roy)
Member (J).

Dated: 26 December, 1992.


Deputy Registrar (Judicial)

(6)

O.A. 615742

TYPED BY _____ COMPARED BY _____
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CHECKED BY _____ APPROVED BY _____
HYDERABAD BENCH

HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR. _____ V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY: M(J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 7/12/1992

ORDER/JUDGMENT:

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

in

O.A. No.

615742

~~T.A.~~ No.

(W.P. No. _____)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

~~Dismissed~~

Dismissed as with drawn

Dismissed for default

M.A. Ordered/Rejected

~~No order as to costs.~~

pvm.

Central Administrative Tribunal
DESPATCH
22 DEC 1992
HYDERABAD BENCH.