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

O.P.NO. 720/92

DATE OF JUDGMENT: 3.7.95

BETWEEN:

PRADEEP KUMAR

APPLICANT

AND

Union of India represented by

1. The Chief Postmaster General,
A.P.Circle, Hyderabad-1.
2. The Director of Postal Services (CR),
o/o the CPMG, A.P.Circle,
Hyderabad-1.
3. The Manager,
Mail Motor Service,
Hyderabad-195.

RESPONDENTS

COUNSEL FOR THE APPLICANT: SHRI K.K.CHAKRAVARTHY

COUNSEL FOR THE RESPONDENTS: SHRI N.R.DEVARAJ
Sr/Asstt. CGSC.

CORAM:

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

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

78

O.A.NO.720/92.

JUDGMENT

Dt:3.7.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri K.K.Chakravarthy, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. Charge memo dated 21.1.1988 was issued to the applicant who was then working as Watchman in the office of R-3. After due inquiry, the Inquiry Officer by the order dated 19.4.1990 held that all the three charges are not proved. But the disciplinary authority disagreed with the same and held that all the three charges are proved and ^{ordered} removal of the applicant from service. The appellate authority confirmed it by the order dated 22.8.1991. It is assailed in this OA.

3. The applicant raised a number of pleas in his appeal memo dated 11.1.1991.

4. The appellate authority summarised the pleas raised in the said ~~appeal~~ memo as under:-

i) though the Inquiry Officer has clearly held the charge as "not proved", the disciplinary authority disagreed with the Inquiry Officer and punished him and the Disciplinary authority was

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biased and prejudiced against him as in one earlier Rule 14 case against him, the appellate authority set aside the punishment;

ii) that the disciplinary authority while disagreeing with the Inquiry Officer imported his own knowledge unconnected to the case and also alleged that state witnesses were Witnesses in another Rule 14 case against him, which was set-aside by the appellate authority; and

iii) though the witnesses gave statement in preliminary enquiries, they could not maintain their stand during the oral Inquiry and there was no evidence to show that any of the charges was proved, but still the DA relied upon the original statements of witnesses."

5. With reference to the same the appellate authority observed as under:-

"I have carefully gone through the points raised by the appellant. I have applied my mind to the gravity of the charges, the proof produced to prove the charges and the arguments put forth by the appellant against the punishment order.

After weighing all relevant aspects, I am convinced that article-I of the articles of charges viz; that the official failed

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to perform his duties faithfully and failed to remain vigilant in his duties as Watchman for adequate safety of the Government properties, is proved with absolute certainty. The weak points in the chain of the evidence pointed out by the appellant in no way destroys the overwhelming evidence against the applicant. Similarly, article II too stands proved for similar reasons. Article III has not been conclusively proved.

There is no substance in the contention of the appellant that the disciplinary authority has upheld the charges as not proved by the Inquiry Officer. The DA is fully within his rights to agree or disagree with the Inquiry Officer's report provided he has sufficient reasons for doing so. As this requirement has been adequately met, there is no irregularity in this course of action of the DA. As regards the allegation of the appellant against the DA and some of the witnesses, they are irrelevant, unsubstantiated and unwarranted. The requirement of natural justice have been adequately met. Adequate opportunity has been afforded to the appellant and a fair Inquiry has been conducted."

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6. It is manifest from the above that it is not a speaking order in regard to the pleas raised by the applicant in the appeal memo. Ofcourse, an order of the appellate authority in the disciplinary proceeding need not be an elaborate one ~~which is as~~ in the case of an order of the appellate authority on judicial side. But at the same time, the order of appellate authority even in a disciplinary proceeding has to ^{consider} ~~have~~ pros and cons in regard to the pleas that were considered.

7. So in the circumstances, we feel that it is a case where the order of the appellate authority has to be set-aside and the matter has to be remitted for consideration afresh by the appellate authority by keeping in view the observations in this order. It is for the appellate authority now to consider as to whether all the material ~~xxx~~ and the relevant pleas raised in the appeal memo were referred to in the impugned appeal order or not, and if any additional point also has to be considered on the basis of the memo of appeal, that also has to be adverted to. It is also necessary for the appellate authority to consider as to whether the punishment of removal, if the charges are held as proved, ~~is~~ is harsh or not.

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8. In the result, the order dated 22.8.1991 in proceedings No.ST/16-HD/8/90 of R-I is set-aside and the matter is remitted to R-I for consideration of the appeal of the applicant afresh by keeping in view the observations in this order. R-I has to dispose of the same expeditiously and preferably by the end of September 1995. No costs. The OA is ordered accordingly.//


(A.B.GORTHII
MEMBER (ADMN.)


(V.NEEIADRI RAO)
VICE CHAIRMAN

DATED: 3rd July, 1995.
Open court dictation.


Deputy Registrar(J)CC

vsn

To

1. The Chief Postmaster General,
A.P.Circle, Union of India, ~~Hyderabad-1~~
Hyderabad-1.
2. The Director of Postal Services (CR) O/o the CPMG, A.P.Circle, Hyd-
3. The Manager, Mail Motor Service,
Hyderabad-195.
4. One copy to Mr.K.K.Chakravathy, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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C.C by 10/2/95

THPED BY 5/1/95 CHECKED BY
COMPARED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN))

DATED 3/7 1995.

ORDER/JUDGMENT:

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

in
O.A.No. 720/92
T.A.No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

No Spate Copy

