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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDL.BENCH
AT HYDERABAD

O.A.No. 801 of 1992

Between:

Shaik Khasim, son of S.K.Rasool,
aged ~~about~~ 43 years, Ex.EDMC,
Gannavaram, Wyra Mandal. .. Applicant

Vs.

The Sub Divisional Inspector (Postal)
Madhira Sub Division,
Madhira-507 203. .. Respondent

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE APPLICANT:

The particulars of the applicant are as indicated in the cause title. The address for service of all notices and process to the above named applicant to that of his counsel M/s.G.Vasantha Rayudu and G.Rajashree, Advocates, 16-8-240/10, Ashrafnagar, Malakpeta, Hyderabad-500 036.

2. PARTICULARS OF THE RESPONDENT:

The particulars of the Respondent are the same as was mentioned in the above cause title.

3. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

The applicant in the above OA who was removed from the service vide Proceedings of the Sub Divisional Inspector (Postal) Madhira Sub Division, Madhira vide No.PF/EDMC/G.Varam/ dated at MDR the 10-11-90 and the dismissal of the appeal filed by the applicant

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by the Superintendent of Post Offices, Khammam Division vide Proceedings No.F/Misc/GVM/90 dated at Khammam the 28-8-91, seeking orders of the Hon'ble Tribunal for reinstatement with continuity of service and other benefits from the date of his termination.

4. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction^{of the Tribunal, Act, 1985} of the Tribunal, Act, 1985

5. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. FACTS OF THE CASE:

The petitioner submits that he joined in the postal service as EDMC on 1-6-1974 and he worked in that capacity to the satisfaction of his superiors without any demur.

While so as the BPM was harassing the petitioner and even manhandling him if he refuses to do the illegal acts as instructed by the B.P.M. who is a powerful man in the village and was also an ex-patel and even refused to pay the salaries to the petitioner, he lodged a complaint to the Sub Divisional Inspector, Madhira Sub Division. The Assistant Superintendent of Post Offices, Khammam paid a visit to the Gannavaram B.

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On 26-8-87 to enquire into the complaint given by the petitioner and found out certain irregularities committed by the said B.P.M. The said B.P.M. had thrown the entire blame on the applicant in order to save himself from the said irregularities.

(b) Thereupon, the petitioner from 8-10-1987 kept under suspension vide the orders of the respondent dated 8-10-87 and an enquiry had been launched against him. K. John, ASPOS, Khammam (North) (Postal) Sub Division was appointed as enquiry officer as per the orders of the Respondent vide Memo No. PF/EDMC/Gannavaram dated 17-10-88. The charges were framed against the petitioner and enquiry was held by the said enquiry officer from 12-1-89 to 18-7-89. The enquiry report was submitted by the Enquiry Officer to the respondent by holding that charges were proved. The same was communicated to the petitioner by the respondent vide its Memo No. PF/EDMC/90-91 dated MDR the 18-7-90. The petitioner sent a representation to the respondent, as directed by the respondent through the said letter referred to above on 3-8-90 stating that he was innocent of the charges levelled against him.

(c) The Respondent vide its orders PF/EDMC/G.Varam/ dated at MDR the 10-11-90 held that the petitioner should be removed from service with immediate effect.

(d) Aggrieved by the said orders, the petitioner preferred an appeal before the Superintendent of Post offices, Khammam by its appeal dated 9-2-91.

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(e) The Superintendent of Post Offices, Khammam Division, vide its orders Memo No.F/Misc./GVM/90 dated at Khammam the 28-8-91 rejected the appeal preferred by the petitioner which was communicated to the by Regd. Post with Ack.Due. ³¹⁻⁸⁻⁹¹ Aggrieved by the said orders, the petitioner is approaching this Hon'ble Tribunal against redressal and for reliefs.

7. GROUND FOR RELIEF WITH LEGAL PROVISIONS

(i) The charge-sheet is not maintainable for violation of Rule 4(1) and 4(2) of P and T Manual Volume III as the charges and annexure II are expressed in the form of definite opinion.

(ii) The Inquiry Officer violated Rule 14(15) C.C.S. (CCA) Rules 1965 in the conduct of enquiry by summoning a witness after the closure of the prosecution case. Apart from violating Rule 14(15) of CCS(CCA) Rules, the I.O. also went against the finding of the Court by his irregular action vide case law State of Punjab Vs. Karamchand AIR 1959 Punjab 402. Reasonable opportunity is denied if an evidence against is produced after defence evidence is produced.

(iii) The I.O. had relied on preliminary statements which is prohibited to vide case law A.R.Mukharjee Vs. Deputy Chief Mechanical Engineer AIR 1961 Calcutta 40. The Disciplinary authority has no answer to the violating of this basic principle but says that as the prosecution witness allowed to be cross examined the I.O. was right

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in relying on preliminary statements. But the results of the cross examination never supported the contention of the preliminary statements. Therefore if the I.O. and the Disciplinary authority had any consideration for the cross examination they should have been guided by the answers given by the prosecution witnesses instead of presupposing the offence.

(iv) Regarding contention of the disciplinary authority about the skill and authority of the I.O. to compare the handwriting what is stated in the order is not very much comprehensible. The disciplinary authority ought to have seen that every inference should be based on acceptable evidence and the point of dispute of the handwriting being raised not by any witness but by the I.O. reduces the I.O. to the position of a witness and the subjective thinking of such an I.O. itself is not rational.

(v) Even assuming without conceding that the charges are proved, the charges that are framed as not severe in nature and the punishment imposed i.e. dismissal from service is too harsh and severe and not in commensurate with the gravity of the charges.

(vi) The appellate authority ought to have taken into consideration of the poor family, condition of the petitioner who is the male earning member of the family.

(vii) The appellate authority ought to have

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taken into consideration of the past good character and conduct of the petitioner who served in the postal department since 1974 onwards without any blemish or demur whatsoever from any quarters.

(viii) The appellate authority ought to have considered the merits of the case before rejecting the appeal in a summary way

8. RELIEF SOUGHT FOR:

For the reasons stated above the petitioner prays that the Hon'ble Tribunal may be pleased to

(a) direct the respondent to reinstate the petitioner into service as EDMC, Gannavaram Wyra Mandal with continuity of service and other benefits from the date of his termination;

(b) and pass such other order or orders as are deemed fit and proper.

9. INTERIM RELIEF SOUGHT FOR:

As already stated the petitioner was removed from the service and is not able to live without any income and starving. If the application is allowed in toto also will not solve the problem as he is not able to live without food. Therefore this Hon'ble Tribunal may pass interim orders, directing the respondent to appoint the petitioner as EDMC, Gannavaram B.O. Wyra Mandal pending consideration of the above application.

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10. DETAILS OF THE REMEDIES EXHAUSTED:

The applicant declares that he has availed all the remedies available to him under the relevant services rules etc.

1. Representation to the Respondent on
3-8-1990
2. Appeal preferred by the petitioner before
The Superintendent of Post Offices,
Khammam dated 9-2-91.

11. MATTERS NOT PENDING WITH ANY OTHER COURT:

The applicant declare that the matter relating to which the application has been made is not pending before any Court of law or any other authority or any other bench of the Tribunal.

12. PARTICULARS OF THE POSTAL ORDER:

Postal Order No.	626 677991 - Rs - 10 -
Dated:	713 939257 Rs 20
For Rs.	713 939253 Rs - 20
drawn on:	50

LP.O./B.C./B.D./Removed

13. LIST OF ENCLOSURES:

- a) Postal Order
- b) Vakalat

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- (c) Proceedings of the Superintendent of Post Offices, Khammam Division in Memo No. F/Misc/GVM/90, dated at Khammam the 28-8-91 sent by Regd. Post with AD.
- (d) Proceedings of the Sub Divisional Inspector (Postal) Madhira Sub Division, Madhira in PF/EDMC/G.Varam dated at MDR the 10-11-90.
- (e) Written representation of the petitioner, EDMC, Gannavaram, B.O. #/w Wyra B.O. 507 165.

Rajani G.
Counsel for Applicant.

Shaik Khasim
APPLICANT

Verification.

I, Shaik Khasim, son of S.K. Rasool, aged about 43 years, Ex.-EDMC, Gannavaram B.O. Wyra SO, Khammam Dist. residing at Gannavaram now temporarily come down to Hyderabad do hereby verify that the contents of the above application/^{are true}to the best of my knowledge and belief and that I have not suppressed any material facts.

Shaik Khasim
APPLICANT

To

The Registrar,
Central Administrative Tribunal,
Additional Bench,
Hyderabad.