

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.714 of 1993

DATE OF ORDER:-4th November, 1996

BETWEEN:

SYED ZAHEER HUSSAIN

.. APPLICANT

AND

1. Union of India represented by
The Director General, Department of Posts,
New Delhi 110 001,
2. The Chief Postmaster General,
A.P.Circle, Hyderabad 500001,
3. The Director of Postal Services,
Office of the CPMG, Dak Sadan,
Hyderabad 500 001,
4. The Sr.Superintendent, R.M.S.,
Hyderabad Sorting Division,
Hyderabad 500 027.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI P.RATHAIAH

COUNSEL FOR THE RESPONDENTS: SRI NV RAGHAVAREDDY, Adl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDICIAL)

JUDGMENT

ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR,
MEMBER (JUDICIAL))

None for the applicant. Heard Shri N.V.Raghava
Reddy, learned standing counsel for the respondents.

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2. The applicant has filed this Original Application challenging the order dated 17.12.92 bearing No.ST/16-HD/64-92 by which he was dismissed from service. The Respondent No.3 passed the said order after furnishing to the applicant a copy of the report of the Inquiry Officer in accordance with the directions made by this Tribunal in Original Application No.971/90 dated 11.3.92, and considering various contentions raised by the applicant in his reply dated 20.4.92.

3. The applicant was issued with the articles of charges as per Annexure-3.

4. On perusal of the article of charges, it is disclosed that during January 1985, the applicant was working as T/S Sorting Assistant, HRO, Hyderabad Sorting Division, Hyderabad, that he had applied for Casual Leave for 2 days on 7.1.85 and 8.1.85, that he failed to report for duty on 9.1.85 and that he remained unauthorised absent from 9.1.85 to 15.1.85 without submitting application for sanction of any kind of leave.

5. For his unauthorised absence, an inquiry was conducted. The applicant participated in the proceedings. The Inquiry Officer submitted his report. The Disciplinary Authority considered the report of the Inquiry Officer as per his order in proceedings No.B2/L/S.Z.Hussain dated 11.10.1988 and dismissed the applicant from service.

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Against the said order of dismissal, the applicant filed the Original Application No.971/90. In the said Original Application, it was disclosed that the Disciplinary Authority had passed the order of dismissal without furnishing a copy of the report of the Inquiry Officer to the applicant and, therefore, this Tribunal accepted the application and directed the respondents to furnish a copy of the report of the Inquiry Officer to the applicant and to consider the representation, if any, made by the applicant to the report.

6. That Original Application (No.971/90) filed by the applicant was decided on 11.2.1992.

7. Now the applicant has challenged the impugned order on the grounds that right from the issue of article of charges, he was denied reasonable opportunity, that both the Disciplinary Authority and the Appellate Authority were estopped from taking extraneous material into consideration, that the charge sheet was silent of pendency of the criminal case as well as criminal appeal, that the charge sheet, order of penalty and the appellate order denied him treatment on par with Shri S.A.Shukkur who was also accused in the said criminal case, and that the order of dismissal is violative of Article 311(2) of the Constitution of India.

8. Refuting the averments made by the applicant in



their counter affidavit specifically stated that reasonable opportunity was given to the applicant during the inquiry, that during the inquiry, the applicant had putforth false defence to the effect that he had submitted an application for sanction of leave through his nephew Syed Muzluba through Certificate of Posting at Muradnagar PO, that on examination of certificate of posting, it was noticed that the certificate was obtained on a paper on which it was printed at the edge with words "ptg 1-52/87-88/ND dated 25.9.87 Aruna Printers, 10000 bks." for the absence during January, 1985, that it was ~~also~~ false to say that he was not able to move out of bed during the said period, that actual fact disclosed was that the applicant was involved in a theft case of a Parcel ^{in the office} of Chandini Chowk, Delhi, that the applicant to avoid arrest by the Police, took two days casual leave in the first instance and thereafter absconded from the residence which resulted in this unauthorised absence, that this fact was disclosed by the applicant himself during the inquiry, that after acquittal in connection with the theft of parcel at Chandini Chowk, Delhi the applicant was saying that he had no knowledge of his presence during the period from 9.1.85 to 16.1.85, that considering the various defence putforth by the applicant, the disciplinary authority issued the charge sheet. The defence set up by the applicant was subsequently proved as a false one and ^a cooked up story. The averments that he was not furnished with the copies of documents mentioned in the truth and ^{and are far} the application ^{may} be dismissed with costs.

9. In case the applicant felt that the Inquiry Officer had denied him reasonable opportunity or in case he

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felt that the Inquiry Officer was acting against the principles of natural justice, then the applicant should have approached the Disciplinary Authority for nominating a different Inquiry Officer. He has not done so. The applicant has not stated what was the extraneous material which prevailed upon the Disciplinary Authority and the Appellate Authority while passing the order of dismissal from service. He has not been able to state what were the circumstances that prevailed with Shri S.A.Shukkur and what were the circumstances which were similar to his case.


9. This Tribunal cannot sit as an appellate forum and reappreciate the findings reached by the Disciplinary Authority as well as the Appellate Authority.

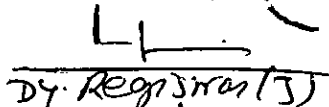
10. The applicant has not chosen to explain the circumstances under which the order of punishment is violative of Article 311(2) of the Constitution of India.

11. On going through the records, we are satisfied that the competent officer has passed the impugned order after giving sufficient opportunity to the applicant. We feel that the punishment meted out to the applicant is quite disproportionate to the gravity of the charge. But, however, it is for the Disciplinary Authority to award condign punishment. This Tribunal cannot reduce it. Hence, we find no reason to interfere with the order challenged in this OA. Therefore, the OA is dismissed with no order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL)

DATED: 4th-November, -1996
Dictated in the open court


(R. RANGARAJAN)
MEMBER (ADMN.)


Dy. Registrar (J)
12/11/96

Copy to:-

1. The Director General, Department of Posts, Union of India, New Delhi.
2. The Chief Postmaster General, A.P.Circle, Hyd.
3. The Director of Postal Services, O/O PMG, Dak Sadan, Hyd.
4. The Sr. Superintendent, R.M.S., Hyd Sorting Division, Hyd.
5. One copy to Sri. P.Rathaiah, advocate, CAT, Hyd.
6. One copy to Sri. N.V.Raghava Reddy, Addl. CGSC, CAT, Hyd.
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27/11/96
714/93
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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)
Hm m. B.S. Jai Dasmeshwari M/3.

DATED: 4/11/96

ORDER/JUDGEMENT
R.A./C.P./M.A.NO.

O.A.NO.

in
714/93

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

~~DISMISSED~~

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

~~NO ORDER AS TO COSTS.~~

YLKR

II COURT

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
देखण / DESPATCH

21 NOV 1996

BENCH