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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 1276/93.

Dt. of Decision : 27.5.94.

Mr. Ch. Narayanacharyulu

.. Applicant

Vs

1. Secretary, Ministry of Defence,
DHQ P.O. New Delhi-110 011.
2. Chief of the Naval Staff
Naval Headquarters, DHQ P.O.
New Delhi - 110 011.
3. Director of Civilian Personnel
Naval Headquarters, DHQ P.O.
New Delhi - 110 011
4. Chief of Personnel, Naval Head-
quarters, DHQ P.O. New Delhi-110 011.
5. Flag Officer Commanding-in-Chief
Eastern Naval Command, Naval Base,
Visakhapatnam - 530 014.
6. Chief Staff Officer (P & A),
Eastern Naval Command, Naval Base,
Visakhapatnam-530 014.
7. The Material Superintendent,
Material Organisation, Eastern
Naval Command, Kanchrapalem P.O
Visakhapatnam - 530 008.

.. Respondents.

Counsel for the Applicant : Mr. Ch. Narayanacharyulu
(Party-in-person)

Counsel for the Respondents : Mr. N.R. Devaraj, Sr.CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

This OA was filed assailing the order dated 21-3-1990 passed by Sri L. Ramdas, who was then Vice Admiral, Flag Officer Commanding-in-Chief, Eastern Naval Command, Visakhapatnam, which was confirmed by order dated 21-4-1993 passed by Sri R.B. Suri, who was then Vice Admiral, Chief of Personnel, Naval Headquarters, CP Directorate, New Delhi.

2. One of the contentions raised for the applicant is that an authority lower to the authority who passed the order of punishment cannot dispose of an appeal against such order of punishment.

3. It is averred in the reply (page 9 of the material paper) that Sri Ramdas, had become Chief of the Naval Staff and as he cannot consider appeal against his own order, the appeal was disposed of by Chief of Personnel at the Naval Headquarters.

4. The Appellate authority should be an authority higher than the authority who passed the original order. If that original authority had become an Appellate authority, the appeal has to be transferred to the authority equal or higher to the Appellate authority for one cannot sit over against his own judgement i.e. one cannot consider the appeal against his own order.

5. It is true that there is no authority equal to Chief of Naval Staff in the Navy. Then can it be stated that as of necessity the appeal can be transferred even to an authority lower to the Appellate authority? It may be

noted that even though Chief of the Naval Staff is the Head of the Navy, the President is above the Chief of the Naval Staff and Chief of the Army and Chief of the Air Force are authorities equivalent to Chief of the Naval Staff. In such a case, it is open to the President to transfer the appeal from Chief of Naval Staff to the Chief of the Army or Chief of Air Force. There is no further need to advert to the same for it is suffice to observe that Sri R.B. Suri, who was the Chief of Personnel at the relevant time was not competent to dispose the appeal against the order passed by the Flag Officer Commanding in Chief, for Chief of Personnel is not an authority superior to Flag Officer Commanding in Chief and he is only an authority equal to Flag Officer Commanding in Chief, and hence Chief of Personnel has no jurisdiction to dispose of the appeal against the order of Flag Officer Commanding in Chief.

6. It is now stated that Sri Ramdas retired from the post of Chief of Naval Staff. Hence, now there is ^{no} bar for the present Chief of Naval Staff to dispose the appeal preferred by the applicant against the order dated 21-3-1990 of Sri L. Ramdas.

7. The applicant submitted that he has to be given personal hearing by the Appellate authority, if he (the applicant) makes a request for the same as observed by this Bench in the order dated 8-3-1991 in OA.303/90 on the file of this Bench.

8. In view of the above order it has to be stated that if infact the applicant made a written request as per memo of appeal which was already submitted, for personal hearing at the time of consideration of the appeal, then

Copy to:-

1. Secretary, Ministry of Defence, DHQ, P.O. New Delhi-110 011.
2. Chief of the Naval Staff Naval Headquarters, DHQ, P.O. New Delhi-110 011.
3. Director of Civilian Personnel Naval Headquarters, DHQ, P.O. New Delhi -110 011.
4. Chief of Personnel, Naval Head quarters, DHQ, P.O. New Delhi-110 011
5. Flag Officer Commanding-in-Chief, Eastern Naval Command, Naval Base, Visakhapatnam-530 014.
6. Chief Staff Officer (P & A), Eastern Naval Command, Naval Base, Visakhapatnam-530 014.
7. The Material Superintendent, Material Organisation, Eastern Naval Command, Kancharapalem P.O. Visakhapatnam-530 008.
8. One copy to Sri Ch. Narayana Charyulu, Party-in-person. E/1 Pallava Park, Kancharapalem P.O. Visakhapatnam-5
9. One copy to Mr. N.R. Devaraj, Sr. CGSC. C.A.T. Hyderabad.
10. One copy to Library
11. One spare.

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it is necessary for the Appellate authority to give personal hearing to the Appellant for consideration of the appeal.

9. In the above view it is not just and proper ^{for} to this Tribunal to ^{admit} ~~revert~~ to the other plea raised in this OA for it is a matter for setting aside the order dated 21-4-1993 ^{passed} by R-2, Vice Admiral, Sri R.B. Suri and remit the appeal to the Chief of Naval Staff.

10. In the result, the order dated 21-4-1993 of Sri R.B. Suri, Vice Admiral, is set aside and the appeal is remitted to the Chief of Naval Staff for disposal in accordance with law. If in the Memorandum of Appeal that was already submitted by the applicant there is a request for personal hearing ^{at the time of} ~~for~~ consideration of the appeal, the Chief of Naval Staff has to give personal hearing for the applicant for it is so ordered by this Bench as per order dated 8-3-1991 in OA.303/90.

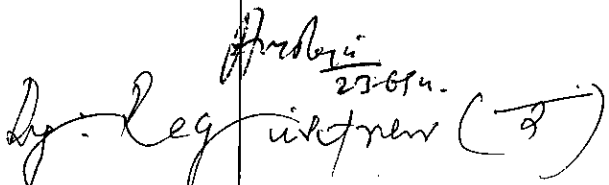
11. The OA is disposed of accordingly. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : May 27, 94
Dictated in Open Court

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27-5-94
Reg. Secy (2)

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