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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

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O.A.1432/93

Dt. of Decision : 27.4.1994.

Sri K. Hameeduddin

.. Applicant.

Vs

1. Superintendent of Post Offices,
Sangareddy.

2. Director of Postal Services,
Hyderabad Region,
Hyderabad.

.. Respondents.

Counsel for the Applicant : Mr. M. Ramakrishna Rao

Counsel for the Respondents: Mr. V. Bhimanna, Addl. CGSC.

CORAM:

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

THE HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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O.A.No.1432/93

Dt. of decision: 29-9-1994

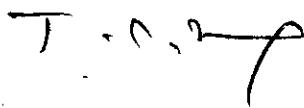
Judgement

[As per the Hon'ble Sri T. Chandrasekhara Reddy, Member (J)]

This application filed U/s 19 of the A.T. Act to direct the respondents to pay Subsistence Allowance to the applicant @ 75% of his leave salary as provided under F.R. 53 and to pass such other order as may deem fit and proper in the circumstances of the case.

2. The facts so far necessary to adjudicate this O.A. in brief are as follows: The applicant while working as Sub-Post Master in the Admv. Building P.O., BHEL is alleged to have committed fraud upto a tune of Rs.26,726/- Contemplating a disciplinary enquiry the applicant was placed under suspension w.e.f. 24-4-93. The charge sheet against the applicant was issued on 28-7-93 under R.14 of CCS (CCA) Rules, 1965 for the alleged misconduct committed by the applicant in his official capacity as SPM of Adm. Building, BHEL, Hyderabad.

3. The first respondent, as per his Memo. dt.6-11-93, passed by the competent authority had reduced the allowances of the applicant to 50% allowance paid during the period of first three months. It is the case of the applicant in the conduct of the preliminary enquiry, or in the issue of the Charge sheet that the delay is not at all attributable to him, and the respondents were not justified in reducing Subsistence Allowance from 50% to 25% w.e.f. 6-11-93. It is also the case of the applicant that he is entitled for Subsistence Allowance not exceeding 50% of the subsistence allowance admissible during the period of the first three months of suspension. So, the present OA is filed for the relief as already indicated above. Counter is filed by the respondents opposing this O.A.


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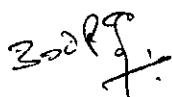


4. We have heard Sri M. Ramakrishna Rao, counsel for the applicant and Sri V. Bhimanna, standing counsel for the respondents.

5. In view of the alleged fraud committed by the applicant while working as SPM in the Adm. Building P.O., BHEL as disciplinary proceedings were contemplated against the applicant, the applicant was kept under suspension w.e.f. 24-4-93. According to the respondents, the delay in completing the preliminary enquiry against the applicant is directly attributable to the applicant and so the Subsistence Allowance has been reduced w.e.f. 6-11-93. It has got to be seen whether the delay in completion of preliminary enquiry can be attributed to the applicant herein. Admittedly, the applicant was kept under suspension from 24-4-93. In the counter of the respondents it is maintained that the applicant was directed on 14-9-93 to attend the office of the SPOs, Sangareddy for giving statement in connection with preliminary enquiry and that the applicant replied that he had a risk to his life with Sri Md. Bin Omer ganga at Sangareddy and so requested to fix the venue at Zahirabad or Hyderabad, accordingly the applicant was asked to attend the office of SDI(P) at Zaheerabad on 30-9-93. The applicant did not attend but sent a representation through another employee stating that he was in a position to attend the enquiry on 1-10-93 only. The applicant attended the enquiry on 1-10-93 but refused to give his statement basing on the xerox copies of the documents and stated that ^{he} would give his statement only after examining the original documents, ^{peruse} and the applicant was permitted to ^{peruse} the original documents in the SPOs' office, Sangareddy. But the applicant had not gone to the office of the SPOs, Sangareddy to submit his statement. So, on further review the Subsistence

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Allowance was reduced by 50% as the enquiry according to the respondents was delayed due to the applicant.

6. The applicant admittedly was kept under suspension with effect from 24-4-93. As would be seen, the Department had not moved at all in this matter till the end of month of August, 1993. It is only for the first time on 14-9-93 that the applicant had been asked to attend the office of the SPOs, Sangareddy on 20-9-93. But as per the request of the applicant he was permitted to attend the enquiry on 1-10-93 at Zaheerabad. So, we see no undue delay on the part of the applicant in responding to the call of the respondents to attend the preliminary enquiry on 1-10-93. No doubt the applicant had been called to make a statement and the applicant does not appear to have responded to the same. There was no legal obligation on the part of the applicant to give any statement in the preliminary enquiry. So, when the applicant was asked to submit his statement in the preliminary enquiry and the applicant had remained silent, it was open to the respondents to proceed further with the preliminary enquiry and take a proper decision well in time. So, we see no justification on the part of the respondents in reducing the Subsistence Allowance to 50% admissible during the first three months w.e.f. 6-11-93. Hence the respondents are directed to pay Subsistence Allowance to the applicant at an amount equal to the leave salary which the applicant would have drawn if he had been on leave on Half Average Pay w.e.f. 6-11-93 onwards upto the date of issue of Charge sheet and also for the first three months at the same rate from the date of issue of Charge sheet. Even though the applicant had claimed Subsistence Allowance @ 75% from the date for the period subsequent to the period of first three

of his suspension, in view of the facts and circumstances of the case, the normal Subsistence Allowance from 6-11-93 onwards till three months after the charge sheet is filed appears to be reasonable.

If the applicant continues to be aggrieved with regard to the rate at which the Subsistence Allowance is paid to him after the expiry of three months from the date of issue of Charge sheet, it will be open to the applicant to approach the competent authority to review the rate at which the Subsistence Allowance is to be paid to him, and if the applicant is dissatisfied by the action of the competent authority in reducing the rate of Subsistence allowance payable to the applicant after the above said period, the applicant would be at liberty to approach the Tribunal afresh in accordance with law for proper relief with regard to payment of Subsistence Allowance. The O.A. is allowed accordingly. No costs.

T. C. R.
(T. Chandrasekhara Reddy)
Member (J)

A. B. G.
(A. B. Ganthi)
Member (A)

Dt. 27-4-94.

3-574
Deputy Registrar (J) CC

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To

1. The Superintendent of Post Offices,
Sangareddy.
2. The Director of Postal Services, Hyderabad Region, Hyderabad
3. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr. V. Bhimanna, Addl. CGSC. CAT. Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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