

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1187-of 1993

DATE OF ORDER: -28th-November, -1996

BETWEEN:

VVLN SASTRY

.. Applicant

AND

1. Union of India represented by its Secretary, Dept. of Posts, New Delhi,
 2. The Postmaster General, Vijayawada,
 3. The Sr.Superintendent of Post Offices, Eluru Division, West Godavari District,
 4. The Sub Divisional Inspector (Postal), Jangareddigudem, West Godavari District.
- .. Respondents

COUNSEL FOR THE APPLICANT: SHRI VVLN SARMA

COUNSEL FOR THE RESPONDENT: SRI N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, ADMINISTRATIVE MEMBER

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

JUDGEMENT

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

Heard Mr.P.N.Venkata Chary for Mr.VVLN Sarma, learned counsel for the applicant and Mr.N.R.Devaraj, learned standing counsel for the respondents.

2. In this Original Application, the applicant has prayed this Tribunal to call for the records relating to

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the impugned orders of the 4th respondent in his Memo No.PF/EDDA/Erraguntapalle dt: at J.R.Gudem dt:30.12.1988, that of the 3rd respondent in Memo No.F/3-1/87-88 dt:25/26.5.1989 and those of the 2nd respondent Lr.No.SI/IV/Misc/1 dated 29.10.92 as communicated by the 3rd respondent through his Lr.No.F3/VVLNS/ED dt:9.11.1992, quash the same as illegal, arbitrary and for consequential direction to reinstate him into service.

3. The applicant joined duties as EDDA/MC, Erraguntapalle on 1.8.76 and was working as such upto 11.8.87. He was put off duty on 12.8.87. Thereafter the articles of charge were served on him. He was charged ^{as under} with:-

ARTICLE-I:

During the course of verification of money order payments at Erraguntapalli BO on 23.7.1987 the Complaints Inspector C/o SSPOs Eluru noticed that the old age pension order (Payable to payee only) bearing No.849/40 dated 13.2.87 of Tangellamudi for Rs.180/- payable to Smt.Vanam Sitamma, wife of Verranna who is reported to have died in November, 1986 was paid on 18.2.87 by Sri VVLN Sastry to Smt. Allamchina Tirupathamma daughter of the deceased payee. Smt. Allam China Tirupathamma deposed that her mother Smt.Vanam Sitamma wife of Veeranna was actually died 2 months before to

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Sankranthi festival of 1987. She admitted that she had informed about the death of her mother Smt. V.Sitamma to Sri VVLN Sastry the EDDA/MC of Erraguntapalli after a week days of the death and requested him to arrange payment to her old age pension money order if any that may be received to her mother's name.

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ARTICLE-II

Smt. A.Ch.Tirupathamma wife of A.CH.Laxmaiah the wrong receipt of the old age M.O.NO. 849/40 dated 13.2.1987 for Rs.180/- of Tangellamudi SO deposed before the Complaints Inspector (P) O/o SSPOs on 23.7.87 that she had made aware of the fact that her mother Smt.V.Sitamma was dead in Nov.1987 to Sri VVLN Sastry the EDDA, Erraguntapally in Nov. 86 itself and requested him to arrange payment of the money order that may be received to her mother to her within 20 days after her death. She told that the said Sri VVLN Sastry visited her house and informed about the receipt of the money order in February, 1987 and demanded for gratification for arranging payment of the aforesaid money order for which she refused. She confessed that on the third day i.e, 18.2.87 after coming to an agreement with the said postman, took payment of the aforesaid M.O. by affixing her LTI on the aforesaid M.O and received payment from Sri VVLN Sastry, EDDA Rs.120/- (Rupees one hundred and

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Twenty only) out of the value of the M.O Rs.180/- leaving the remaining amount of Rs.60/- as the gratification to the EDDA

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ARTICLE-III:

Sri VVLN Sastry, while working as EDDA-MC, Erraguntapalli on 18.2.87 took two money orders No.849/40 dtd.13.2.87 of Tangellamudi for Rs.180/- and M.C.No:3459 dtd.17.2.87 of Gopalapuram for Rs.70/- and cash Rs.250/- and 47 registered letters and receipted in BO journal and rendered accounts on 19.2.1987 for the above articles and M.Os and cash taken by him on 18.2.1987. Sri K.R.Ch.Rameshababu, B.P.M, Erraguntapalli deposed that the aforesaid official is used to give as stock reply that it is not possible for him to render account of the accountable articles on the same day when he orally insisted for. Sri K.P.Ch.Ramesh Babu told that on 18.2.87 the aforesaid official took the above accountable articles and rendered their accounts only on 19.2.1987 F/N only noting the entries in the postman book as if they were given to him on 18.2.87 itself."

- 4. An inquiry was conducted into the said charges and the inquiring authority submitted his report. The disciplinary authority considering the findings recorded by the Inquiring Authority by his order dated 13.12.88 removed the applicant from service. Against that, the applicant

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submitted an appeal to the appellate authority. The appellate authority considered the grounds and dismissed the appeal. Against that order of the appellate authority, the applicant filed a Review Application after a lapse of about 3 years. However, the reviewing authority rejected the Review Application of the applicant.

5. Now the applicant has filed this Original Application on the grounds that the disciplinary proceedings were vitiated since no subsistence allowance was paid to him during the said period, that he was not furnished with a copy of the report of the Inquiry Officer, that the findings of the Inquiry Officer are based on no evidence and ~~traversed~~^{perverse}, that the respondents 3 and 4 mechanically accepted the evidence recorded by the Inquiry Officer, that there was no proper appreciation of the documentary and oral evidence, that his Review Application was rejected mechanically and that the punishment awarded to him is excessive.

6. The respondents have filed a reply affidavit contending that at the time when the applicant was removed from service by the order dated 30.12.88, there was no obligation on the part of the disciplinary authority to furnish a copy of the report of the Inquiry Officer, that subsequently the rules came into effect from 1.9.89 to furnish a copy of the Inquiry report to the delinquent employee on the basis of the Full Bench decision in the case of Sri Premnath K.Sharma v. Union of India, that hence

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the ground of not furnishing a copy of the inquiry report of the Inquiry Officer is not a ground to set-aside the inquiry or set-aside the impugned order^s that the Respondents 3 and 4 have considered the grounds urged in the appeal and the Review Application properly, that even though the Review Application was filed beyond the period of six months, the authorities considered and passed suitable orders, that the applicant is not entitled to any kind of subsistence allowance for the period he was put off ~~from the~~ duty i.e, from 12.8.87, that there is no provision in the P&T EDA (Conduct and Service) Rules to pay any subsistence allowance for the period an employee ^{was} ~~was~~ put off duty, that the Inquiry Officer has properly appreciated the documentary and oral evidence and had reached to a proper conclusion and that the OA be dismissed with costs.

7. Relying on the judgement of the Supreme court reported in 1993(3) SCALE 952 (Managing Director, ECIL, Hyderabad v. B.Karunakar), the applicant submits that when a case is pending in a Court or Tribunal, the inquiry proceedings have to be given up. But we do not subscribe to the said view. The direction even in this reported case is that if an order of punishment issued earlier to 23.11.90, then those cases need not be reopened. Hence, this contention fails.


8. The disciplinary authority passed the order dated 30.12.88 removing the applicant from service. Then as the law stood, the disciplinary authority was under no


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obligation to furnish a copy of the report of the Inquiry Officer to the applicant. Therefore, that ground does not come to the aid of the applicant. The learned counsel for the applicant contended that the inquiry authority has not properly appreciated the evidence placed on record. This Tribunal is not an appellate authority. This Tribunal cannot reappreciate the evidence and come to a different conclusion.

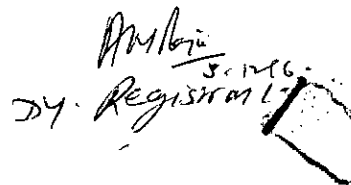
9. The applicant submitted a Review Application after a lapse of three years. In fact, under the proviso to Rule 16 of the EDA (Conduct and Service) Rules, no case should be reopened after the expiry of six months from the date of the order to be reviewed except by the Central Government or by the Head of the Circle. The learned standing counsel for the respondents submitted that even though the Review Application was filed after a lapse of three years, the competent authority considered the same and passed the order. In that view of the matter, we find no illegality or infirmity in the orders impugned by the applicant.

10. For the above reasons, there is no merit in this Original Application. Hence the Original Application is dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
JUDICIAL MEMBER


(R. RANGARAJAN)
ADMINISTRATIVE MEMBER

28th-November, -1996
Dictated in the open court.


24. Registrar

18/11/96

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DA-1187/93

Typed By
Compared by

Checked By
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)
Am No: B-5 Jai pramodhan m/3

DATED: 28/11/96

ORDER/JUDGEMENT
R.A/C.D./M.A.NB.

in

O.A.NO. 1187/93

- ADMITTED AND INTERIM DIRECTIONS ISSUED
- ALLOWED
- DISPOSED OF WITH DIRECTIONS
- DISMISSED
- DISMISSED AS WITHDRAWN
- ORDERED/REJECTED
- NO ORDER AS TO COSTS.

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II COURT

केन्द्रीय प्रशासनिक अपील बोर्ड
Central Administrative Tribunal
दस्तावेज/DESPATCH
16 DEC 1996 *My*
हैदराबाद न्यायपीठ
HYDERABAD BENCH