

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO.1248-of 1993

DATE-OF-ORDER:-9th-December,-1996

BETWEEN:

M.RANGA REDDY

.. APPLICANT

AND

1. The Superintendent of Post Offices,  
Nalgonda,

2. The Director of Postal Services,  
A.P.Northern Region,  
Hyderabad.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI S.RAMAKRISHNA RAO

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

CORAM:

HON'BLE SHRI R.RANGARAJAN, ADMINISTRATIVE MEMBER

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

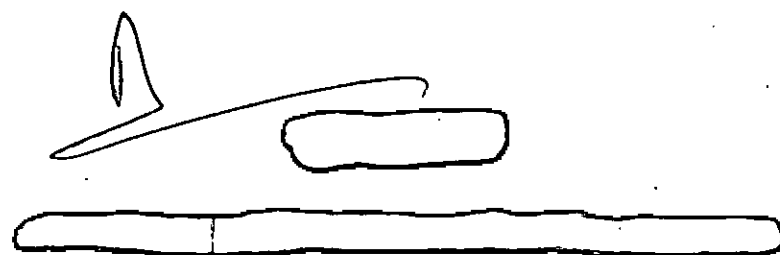
JUDGEMENT

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

Heard Mr.S.Ramakrishna Rao, learned counsel for the applicant and Mr.N.R.Devaraj, learned senior standing counsel for the respondents.

2. The applicant while working as EDBPM, Veeravalli, a/w Bhongir was served with a memo of charges on 30.4.87 as per Annexure-II to the OA at page 19. The articles of charge are as follows:-

R



ANNEXURE-I

Statement of articles of charge framed against Sri M.Ranga Reddy, EDBPM (Put off duty) Veeravalli B.O., a/w Bhongir HO.


ARTICLE-I

That Sri Ranga Reddy while functioning as the EDBPM, Veeravalli B.O., a/w Bhongir HO during the period from 8.12.85 to 10.12.85 received 45 ordinary letters for delivery at Banda Somaram village under the delivery jurisdiction of Veeravalli B.O. as detailed in Annexure-II, but failed to deliver the letters to the concerned on the day of receipt as required under Rule 66 and 71 of Rules for Branch Officer and thereby failed to maintain devotion to duty as required of him under Rule 17 of P&T EDAs (Conduct and Service) rules 1964.

ARTICLE-II

That said Sri M.Ranga Reddy while functioning as EDBPM, Veeravalli BO a/w Bhongir HO on 10.12.1985 kept fictitious balances and shortage in cash and stamps of the BO in contravention of Rule 177(3) of Rules for Branch Offices and thereby failed to maintain devotion to duty as required of him under rule 17 of P&T EDAs (Conduct and Service) Rules, 1964.

B.



ARTICLE-IV

That said Sri M.Ranga Reddy, while functioning as the EDBPM Veeravalli a/w Bhongir HO during 1.4.1985 to 24.10.1985 received seven money orders for payment at the B.O. Paid less amounts to payees as against the actual value of MOs and one money order was paid to a wrong payee in contravention of rule 10 of Rules for Branch Offices and thereby failed to maintain devotion to duty as required of him under rule 17 of P&T EDAs (Conduct & Service) Rules, 1964."

An inquiry was conducted and the inquiry proceedings are at Annexure-3. The Inquiry Officer ~~held~~ ~~the~~ the applicant guilty of the charges levelled against him under Articles 1, 2 and 3(b) as contained in the charge memo No.CR10-28/85 dated 30.4.87 (Annexure II at page 19 of the OA). On the basis of that charge memo the applicant was dismissed from service by the memo dated 20.2.89. The applicant preferred an appeal to R-2 which was also rejected by the memo dated 28.2.90. Aggrieved by the above, he filed OA 1200/91 on the file of this Bench contending that the dismissal order was passed by the respondents without getting explanation from him by handing over a copy of the inquiry report as his main ground. That OA was disposed of by the judgement dated 3.1.92 with a direction to supply a copy of the inquiry report to the applicant for making representation and dispose of the case after affording reasonable opportunity under Article 31(2) of the Constitution of India. The applicant was informed on 22.1.92 that a copy of the inquiry report had already been supplied to him on 20.2.89 and he was asked to submit representation, if any,

within 15 days. The representation of the applicant was received in the office of R-1 on 10.2.92. That representation was considered by R-1<sup>and</sup> on the basis ~~that~~ he was removed from service by the impugned memo dated 9.6.92 (Annexure-I at page 7 of the OA). Against that, he preferred an appeal to R-2 on 3.7.92 and the latter rejected his appeal by the memo No.ST/21-4/3/92 dated 12.4.93 (Annexure-IX at page 56 of the OA).

3. This OA is filed for setting aside the punishment and the rejection of his appeal by R-2 imposed by R-1 and order his reinstatement with all consequential benefits.

4. A reply has been filed in this OA. The main contention of the respondents is that he has been removed from service in accordance with the rules after following the procedure after disposal of the OA 1200/91. There is no lacuna in issuing the final order of removal. He being an ED staff cannot get any allowance during the put off period in terms of Rule 9(iii) of EDAs (Conduct & Service) Rules, 1964.

5. The first contention of the applicant in this OA is that he cannot be denied the allowance as he was not put off duty after the disposal of the OA 1200/91. After the disposal of the OA 1200/91 a proper order putting him off duty should have been issued. As that was not issued, there was no longer a servant-master relationship between him and the respondents. Hence issue of the impugned order dated 9.6.92 by R-1 is illegal. ~~EEEE~~ On that ground, the

R

1

impugned order has to be set-aside and he should be reinstated back on duty.

6. The respondents have not given any reason in regard to the relationship between the applicant and the respondents after the judgment in OA 1200/91. We have checked the relevant rules in this connection. The ED rules do not <sup>Contain</sup> ~~prescribe~~ any provision in regard to whether order of put off duty earlier issued at the time of issue of the charge sheet holds good even after the disposal of the OA 1200/91. The applicant was given a further opportunity to submit his explanation on the basis of the inquiry report before issuing the impugned order dated 9.6.92 in pursuance of the direction in OA 1200/91. As there is no specific rule in this connection in the ED (Service & Conduct) Rules, we examined <sup>there</sup> ~~where~~ there is a rule that will be analogous and applicable in CCS (CCA) Rules. We are of the opinion that sub rule (4) and (5) of Rule 10 can be made applicable in the present circumstances of the case. As per the above referred rule, "where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed

R

2

under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders". As per sub clause 5(a) of the Rule ibid, "an order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so".

7. The above rule is in regard to the continuance of the suspension, passed earlier before issue of the order of dismissal, removal or compulsory retirement which was set aside by a judicial court with liberty to continue the charge memo proceedings, continuing the earlier suspension as deemed suspension, without issue of a fresh order of suspension after the disposal of the case by the Court/Tribunal. In this case, the applicant was put off ~~from~~ <sup>through it may not be</sup> a suspension in the present case as the ED rules do not contemplate suspension, the deemed suspension is analogous to the deemed put off duty. The applicant was put off duty earlier to the disposal of the case viz, OA 1200/91. When the inquiry was further continued in view of the disposal of the OA 1200/91 which resulted in removal in terms of the impugned order dated 9.6.92, the period from the date of dismissal by the earlier order dated 20.2.89 till the issue of the order removing him from service on 9.6.92 should be deemed to have been treated as put off duty as if it is a continuance of the earlier order of putting him off duty when the

R

1

11

charge sheet was issued in the year 1989. Thus, we feel that the relationship between the applicant and the respondents had not been severed if no fresh order putting him off duty was ~~not~~ issued after the disposal of the OA 1200/91. Hence the applicant continued to be a public servant under the respondents' organisation and hence the respondents are right in removing him from service in accordance with the rules. Hence the removal order dated 9.6.92 cannot be questioned on this ground. If the applicant is entitled for the allowance during the put off duty in accordance with the ED (Conduct & Service) Rules, 1964 he should be paid the same even during the deemed put off period.. If that rule does not provide for payment of any allowance during the put off duty, the applicant cannot claim the same just because of the earlier dismissal order was set-aside by the court and the ~~inquiries~~ <sup>disciplinary proceedings</sup> were continued from the stage of submission of the inquiry report. During that period also, the extant ED rules in regard to payment of the allowance is applicable to him.

8. A number of other grounds have been advanced for setting aside the impugned removal order.

9. The first contention is that the inquiry was held in the office of the Sarpanch who is not well disposed towards him and he is responsible for the complaint against him. Hence the inquiry proceedings are vitiated by holding the inquiry in an hostile atmosphere. The respondents have

R

1

stated in their reply in Para 4(2) that the applicant never protested against the venue of the inquiry during the inquiry at any time and this is only an after thought. If the applicant is aggrieved by the location where the inquiry was conducted, he should have submitted a proper representation in this connection to hold the inquiry elsewhere. But he had not resorted to that course of action. Further, it is not also highlighted by him in his appeal as submitted by the learned counsel for the applicant. Hence we do not find any substance in this connection.

10. The second contention is that the Mail Overseer was not produced as <sup>a</sup>witness and the applicant was denied of the opportunity to cross examining him. This point has been rebutted in Para 4(iv) of the reply. It is stated tht the Mail Overseer, Bhongir was available at the time of preliminary inquiry as a prosecution witness and the applicant did not cross examine him. It is also stated that the complaint dated 7.12.85 was handed over to the Postmaster, Bhongir on 10.12.85 and the letters received on 9.12.85 were therefore figured in the preliminary inquiry conducted by the Mail Overseer. Since the articles were not delivered on 14.12.85, the letters received on 9.12.85 were also not delivered ~~and~~ those coplaints were also included. Hence the applicant lost nothing by not cross examining the Mail Overseer. In any case the applicant did not indicate his preference to cross examine the Mail Overseer by producing him to be one of the witnesses.

*Handwritten signature*

*Handwritten signature*




Having failed to do so at the time of inquiry and also having failed to quote this in his appeal, the applicant cannot ask for setting aside the dismissal order on that basis.

11. The next contention is that the charges are not proved. This contention has no meaning as the inquiry report has been submitted after examining the witnesses in the inquiry. The Court/Tribunal cannot reappraise the evidences produced during the inquiry proceedings and reappraise those evidences. This is not an Appellate Court. Hence this contention has got no substance and has to be rejected.

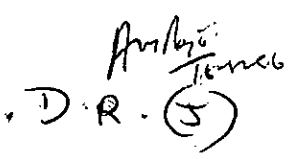
12. In the result, we find no substance in the OA. Hence the OA is dismissed. No order as to costs.

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

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

DATED: - 9th - December, - 1996  
Dictated in the open court.

vsn

  
D.R. (S)

1107.

G.A.NO.1248/93

Copy to:

1. The Superintendent of Post Offices, Nalgonda.
2. The Director of Postal Services, A.P. Northern Region, Hyderabad.
3. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CSSE, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. Copy to All the Reporters as per the list of CAT, Hyd.
7. One duplicate copy.

YLKR

(B) 9/12/96  
Typed By  
Compared by

Checked By  
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 9.12.96

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

in  
O.A.NO. 1248/93

R-23/12/96

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

YUKR

II COURT

Seven Spare Copies

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
दस्तावेज/DESPATCH

- 7 JAN 1997

हैदराबाद न्यायपीठ  
HYDERABAD BENCH