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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1605/93

Date of Order : 28.11.96

BETWEEN :

Kolla Sahadeva Reddy

.. Applicant

AND

1. The Director of Postal Services,
Office of the Post Master General,
Hyderabad Region, Hyderabad

2. The Supdt. of Post Offices,
Peddapally Division, Peddapally,
Karimnagar Dist.

3. The Sub Divisional Inspector,
Dept. of Posts, Huzurabad.

.. Respondents.

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Counsel for the Applicant

.. Mr. P. Ramabrahmam

Counsel for the Respondents

.. Mr. K. Bhaskara Rao

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CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADM.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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X Oral order as per Hon'ble Shri B.S.Jai Parameshwar, M(J) X

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None for the applicant. Mr. K. Bhaskara Rao, learned standing counsel for the respondents.

2. In this OA the applicant has prayed this Tribunal to call for the records in Memo No-F3-1/86-87 dt. 31.7.87 , F 3-1/92-93, dt. 6.11.92 and ST/21-4/2/93, dt. 15.7.93 and to set aside the same as arbitrary and unreasonable with ----- direction to remunerate him into service in the post of B.P.M. Aknoor with immediate effect.

3. The case of the applicant is that he was appointed as EDBPM and worked as such for a period of 5 years that he was

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put off duty from 28.8.86 under Rule 9 of P&T ED Agents (Conduct and Service) Rules, 1964, ^{Contemplating -} ~~that~~ enquiry into the allegations against him relating to misappropriation of MOs and forgery. The said order was ratified by R-2 ^{dt.} 8.9.86. He was served with Articles of charges as per Annexure-2 that a criminal case was registered against him in Crime No.95/86 of Kesavapatnam Police Station that he offered his explanation to the articles of charges that the enquiry was conducted. R-2 by his proceedings ^{dated} No.31.7.87 ordered that he admitted certain allegations voluntarily and thereby removed him from service that he was not paid salary from August 1986 and also bonus declared for the year 1985-86 and other arrears, that in the criminal case in Crime No.95/86 judgement was delivered by the Court on 28.8.92, that the criminal court held that the applicant was not guilty for ^{the} offence punishable under Sections 409 and 471 I.P.C. After receipt of the certified copy of the judgement he submitted representation to the second respondent for reinstatement, that R-2 informed that he had admitted the charges in the disciplinary proceedings and accordingly he was removed from service. He preferred an appeal on 23.11.92 to R-1. The appeal was also rejected on the ground that the same was beyond time and the appeal did not come under the Rule 11 of ED Agents (Conduct and Service) Rules.

4. He has challenged the above orders on the grounds that he had denied the charges framed under disciplinary proceedings that the enquiry officer and another presenting officer was appointed presented on 12.2.87 that he was not permitted to engage the services of an Advocate to defend himself in the enquiry that he was undergoing a ~~university~~ ~~university~~ of his removal is bad in law that the disciplinary authority has not furnished him the report of enquiry officer that he was proceeded simultaneously in the criminal case ^{and} in the disciplinary proceedings that the authorities should have

waited till the conclusion of the criminal trial and that in view of his acquittal he is liable to remove from service.

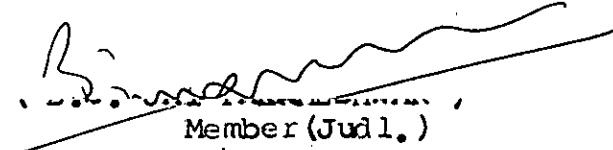
5. . The respondents filed counter affidavit contending that the applicant himself credited an amount of Rs.3620/- in three instalments Rs.1070/- on 29.8.86, Rs.950/- on 3.9.86 and Rs.1600/- on 8.9.86 in total Rs.3620/-. The applicant was involved in fraudulent payment of 20 MOs that the disciplinary authority issued charge memo with respect to 7 MOs paid vouchers to avoid delay in concluding the disciplinary proceedings. During the enquiry the applicant himself admitted and paid the said amount of Rs.3620/-. While the enquiry officer was examining the request of the applicant for engaging the services of legal practitioner the applicant himself admitted the charges ^{through} by his representation dt. 6.5.87. He had not given any explanation or reason for his admission of the charges his statement is accorded on 31.7.87, that in view of the amounts misappropriated the R-2 awarded the punishment of removal that the applicant did not preferred his claim for allowances of the duty period that it was kept under undisbursed allowances in bill No.4 of 9/86 for Rs.254.50Ps. that in view of the judgement of the Hon'ble Supreme Court in the case of Delhi Cloth & General Mills V. Kuchal Bhan (AIR 1960 SC 806) acquittal in the court has no bearing on the departmental action and therefore the applicant is not liable to be reinstated ^t in duty accordingly his representation was rejected. The appeal filed by the applicant against the order of removal was beyond time that the appeal was filed after a lapse of 5 years that as the law stood then ^{there} was no obligation on the part of the disciplinary authority to furnish a copy of the report of the enquiry officer that the decision of the Hon'ble Supreme Court of India in the case of Ramzankhan V. Union of India (AIR 1991 SC 471) is prospective from 20.11.90 and that the OA be dismissed with costs.

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6. The main contention of the applicant is that he should be reinstated into service because of his acquittal in the criminal case filed against him. Even before the criminal case was concluded the disciplinary authority had passed final orders in the disciplinary proceedings initiated against the applicant. During the disciplinary proceedings the applicant himself ~~had~~ admitted he had misappropriated the money and had voluntarily credited Rs.3620/- on the various dates. When that is so any decision in a criminal case does not bind the disciplinary authority to review the punishment ^{once} ~~ones~~ imposed. Further the applicant himself had not challenged the order of dismissal for a period of 5 years. The appellate authority rightly rejected the appeal as barred by time.

7. There are no grounds in this case to interfere with the decision taken by the respondents. Decision has been taken by the respondents in the disciplinary proceedings solely on the admission of the charges made by the applicant.

8. Hence there are no grounds in this OA, the OA is dismissed. No costs.

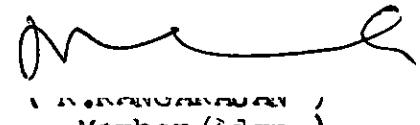

Member (Judl.)

28.11.96

Dated : 28th November, 1996

(Dictated in Open Court)

sd


Member (Admn.)


M. J. M. Regiswami

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P(12)96

02/1605/93

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE HIGH ADMINISTRATIVE TRIBUNAL
THE HYDERABAD BENCH HYDERABAD

THE HON'BLE M. RAJAGOPAL, M(A)
AND
THE HON'BLE SHRI P. PARAMESHWAR, M(J)

DATED:

ORDER/JUDGEMENT

23/6/93

D.A. NO.

1605/93¹⁰

NO. INTERIM DIRECTIONS ISSUED

ADMITTED

DISPOSED OF WITH DIRECTIONS

DISMISSED

MEDLED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT