

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.218/93

date of decision : 6-4-1993

Between

P. Ramaiah : Applicant
and

1. Union of India, rep. by
The Secretary
Ministry of Communications
New Delhi

2. Director of Postal Services
Eastern Region
O/o Post Master General
Vijayavada

3. Senior Superintendent of Post Offices
Nellore Division
Nellore

4. Sri C. Poorna Chandra Rao
Formerly Sr. Supdt. of Post Offices
Nellore Division, Nellore, Presently
working as Sr. Supdt. of Post Offices
Secunderabad Division
Secunderabad

5. Sri K. Venkata Rao, formerly Office ~~Supervisor~~
Supervisor, O/o the Sr. Supdt. of Post
Offices, Nellore Division, presently working
as Superintendent of Post Offices, Gudur
Division, Gudur (NL) AP : Respondents

Counsel for the applicant : S Ramakrishna Rao
Advocate

Counsel for the respondents : NV Ramana, Standing Counsel
for Central Government

CORAM :

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. BALASUBRAMANIAN, MEMBER (ADMN.)

(53)

Judgement

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

Heard Sri S. Ramakrishna Rao, learned counsel for the applicant and Sri N.V. Ramana, learned counsel for the respondents.

2. The applicant is working as Assistant Post Master (Accounts) Nellore Head Post Office, Nellore. Charge memo dated 19-5-1992 was issued to the applicant. On 8-6-92 the applicant submitted a representation to the Disciplinary authority (R-3) requesting him to hold oral enquiry. Without giving any reasons for denying oral enquiry, R-3 proceeded on the basis of personal enquiry and passed order dated 31-7-1992 postponing the increment by one year. Then the applicant preferred ^{appeal} memo dated 16-9-1992. The Appellate authority (R-2) by order dated 10-2-1993 setting aside the order of punishment ^{and} remitted the matter to the Disciplinary authority observing that he had to give reasons ~~for if request~~ ~~for oral enquiry~~ had to be denied. Respondent-2 further observed that the disciplinary proceedings may be continued from the date of representation i.e. 8-6-92. Then R-3 passed an order dated 26-2-1993 by giving reasons ^{for} denying oral enquiry. Then the applicant preferred ~~representation~~ dated 13-3-1993 as against order dated 26-2-1993 passed by R-3.

3. This OA was filed ~~as against~~ the order dated 30-3-1993 in MA.274/93. ^{It is} for setting aside that portion of the further direction of the order of the appellate authority to R-3, the Disciplinary authority, as per memo dated 10-2-1993 directing R-3 that the disciplinary proceedings should be continued from the ~~stage~~ of letter dated 8-6-92 from the applicant to R-3, as ~~an~~ arbitrary, capricious and with an intention to scuttle the chances of the applicant from appearing for Group-B Departmental Examination for the ensuing 1993 Examination and to direct the respondents

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to permit the applicant to appear for Group-B Departmental Examination for 1993 and if selected to place him in 1992 list as he was prevented to appear for the said examination during 1992 because of the impugned punishment.

4. DGP&T letter No.7/31/63-SPB-II, dated 25-6-1965 is to the effect that even an official against whom ~~is~~ the disciplinary proceedings have been initiated or is under suspension, applies for permission to sit ~~at~~ the examination for Departmental candidates, then he may be permitted to appear for the examination if he satisfies all the other conditions prescribed for admission to such examinations. But it is subject to the condition that such official shall however be permitted only after disciplinary proceedings are over and is completely exonerated. But further if the penalty is other than dismissal, removal or compulsory retirement, then such official should be permitted only after the expiry of the ~~penalty~~ ^{period of} and it would not affect the rank obtained by him in the competitive examination.

5. In view of the said provision, the contention that R-2, the appellate authority passed the order dated 10-2-1993 in order to see that the applicant cannot be permitted to appear for the Departmental Examination is not tenable. When R-2 the appellate authority held that R-3 had denied oral enquiry without giving reasons, set aside order of punishment ~~should and~~ ^{he} remit the matter to R-3 the Disciplinary authority directing him to continue disciplinary proceedings from the date of representation of the applicant i.e. 8-2-1992 and to proceed further after giving reasons on the basis of the said representation. It is not shown as to how the said order of the appellate authority is erroneous or illegal. Hence ~~the~~ ^{the} contention against the order dated 10-2-93 of R-2 is also negatived.

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6. The applicant further prays that in case he is going to be successful in the examination for 1993 he had to be deemed to have passed ⁱⁿ 1992 Examination itself. The applicant is not entitled to the said relief as he ~~has~~ not challenged the action of the respondents in 1992 when he was not permitted to appear for the Departmental Examination. That stale claim cannot be considered in this OA.

7. The applicant submitted a representation dated 13-3-1993 as against the order dated 26-2-1993 of R-3 denying the oral enquiry. ~~as~~ six months period from the date of the said representation had not ^{yet} expired, it is premature to consider about it. Anyhow it had to be made clear that if the applicant is going to be aggrieved by the order on the said representation is free to move this Tribunal.

8. The OA is ordered accordingly. No costs.

Neeladri Rao
(V. Neeladri Rao)
Vice-Chairman

R. Balasubramanian
(R. Balasubramanian)
Member (Admn.)

dated : April 6, 1993
Dictated in the Open Court

Deputy Registrar (J)

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To

1. The Secretary, Ministry of Communications,
Union of India, New Delhi.
2. The Director of Postal Services, Eastern Region,
O/o Post Master General, Vijayawada.
3. The Senior Superintendent of Post Offices,
Nellore Division, Nellore.
4. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT.Hyd.
5. One copy to Mr. N. V. Ramana, Addl. CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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Ramakrishna Rao

TYPED BY  COMPARED BY
CHECKED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.K.BALASUBRAMANIAN ;
MEMBER(AlMN),

AND

THE HON'BLE MR.T.CHANDRASEKHAR
REDDY : MEMBER(JUDL)

DATED: 6 -4 -1993

~~ORDER~~ JUDGMENT

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

in

O.A.No. 218/93

T.A.No. (W.P.No)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions Central Administrative Tribunal

Dismissed as withdrawn DESPATCH

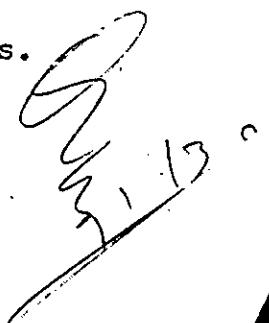
Dismissed

Dismissed for default.

Ordered/Rejected HYDERABAD BENCH.

No order as to costs.

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3/13