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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

DA.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, 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.)

7/10/93

(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 <sup>appeal</sup> memo dated 16-9-1992. The Appellate authority (R-2) by order dated 10-2-1993 setting aside the order of punishment <sup>and</sup> 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 <sup>for</sup> denying oral enquiry. Then the applicant preferred representation dated 13-3-1993 as against order dated 26-2-1993 passed by R-3.

*The way in*  
3. This OA was <sup>amended</sup> filed ~~as against~~ the order dated 30-3-1993 in MA.274/93. <sup>It is</sup> 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

*22/8/93*

(578)

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~~ <sup>can ~~be~~ ~~considered~~ ~~promoted~~</sup> 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 <sup>promoted</sup> ~~permitted~~ only after the expiry of the <sup>period of</sup> ~~penalty~~ 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 <sup>he</sup> set aside order of punishment ~~should~~ <sup>and</sup> 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 <sup>the</sup> ~~a~~ contention against the order dated 10-2-93 of R-2 is also negatived.

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30/8/93

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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 <sup>in</sup> 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. <sup>As</sup> six months period from the date of the said representation had not <sup>yet</sup> 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 <sup>he</sup> is free <sup>to</sup> to move this Tribunal.

8. The OA is ordered accordingly. No costs.

*[Signature]*  
(V. Neeladri Rao)  
Vice-Chairman

*[Signature]*  
(R. Balasubramanian)  
Member (Admn.)

dated : April 6, 1993  
Dictated in the Open Court

*[Signature]*  
Deputy Registrar (J) 13/4/93

sk  
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.

pvm

*[Handwritten signature]*  
P. V. M.

TYPED BY (W) 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. BALASUBRAMANIAM ;  
MEMBER (ADMN),

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  
Dismissed as withdrawn

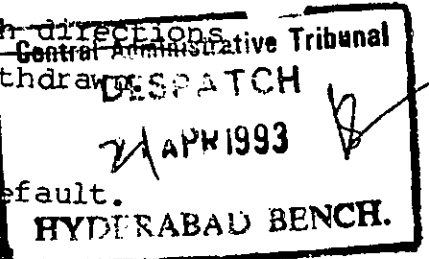
Dismissed

Dismissed for default.

Ordered/Rejected

No order as to costs.

pvm



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