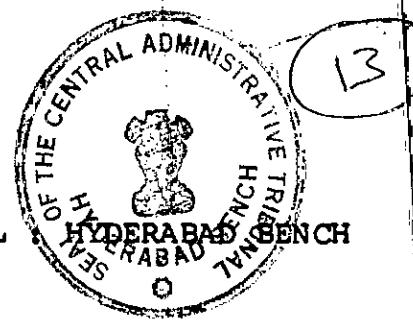


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT HYDERABAD.



O.A. No. 24/93.

Date of Judgement : 13-4-94

A. Ramachandra Reddy

..Applicant

Vs.

The Sr. Supdt. of
Post Offices,
Hyderabad South East Divn.,
Hyderabad-27.

..Respondents

Counsel for the Applicant :: Shri T. Surya Karan Reddy

Counsel for the Respondents :: Shri N.V. Ramana, Addl. CGSC

C O R A M

Hon'ble Shri A.B.Gorthi : Member (A)

Hon'ble Shri T.Chandrasekhar Reddy : Member (J)

J u d g e m e n t

(As per Hon'ble Shri A.B.Gorthi : Member (A))

By means of this application under section 19 of the Administrative Tribunals Act, 1985, the applicant claims for a direction to the respondents to pay him full salary and allowances for the period from 9.5.1977 to 17.3.1983 when he was under suspension, and from 31.3.1990 to 23.5.1990 when the penalty of compulsory retirement was modified and he was reinstated.

2. The applicant while working as a Postal Assistant, Shalibanda P.O. was alleged to have embezzled Rs.25,647.19 from the S.B.Accounts. He was prosecuted in the Court of II Metropolitan Magistrate, Hyderabad on a charge of committing criminal breach of trust but was acquitted on merits on 10.8.1981. The Department then initiated disciplinary proceedings by serving him with a charge memo

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8. As regards O.A.No.308/91 which was allowed by the Tribunal on 21.2.92, it is seen that the Tribunal also noticed the fact that the essential and relevant documentary evidence was destroyed and that consequently the Enquiry Officer held the applicant not guilty of the charge. After taking all the circumstances of the case into consideration the Tribunal set aside the "entire disciplinary proceedings" including the penalty imposed. It gave no further liberty very rightly, in our view, to proceed against the applicant again under the C.C.S.(C.C.A.) Rules.

9. The respondents should not have lost sight of the end-result of the criminal and disciplinary proceedings instituted against the applicant. The criminal case resulted in his acquittal on merits and the disciplinary proceedings stood quashed by the order of the Tribunal. No further disciplinary action is permissible against the applicant on the same charge. In these circumstances, there can be no justification not to treat the period of suspension as 'on duty'.

10. F.R.54-B(3) postulates that where the competent authority is of the opinion that the suspension was wholly unjustified, the government servant shall, subject to the provisions of sub-rule (8) be paid in full pay and allowances to which he would have been entitled, had he not been suspended. In the instant case, as the applicant has suffered neither a conviction nor a penalty, the suspension has to be viewed as wholly unjustified.

11. In the result, we direct the respondents to treat the period of suspension from 9.5.1977 to 17.3.1983 and the period of deemed suspension from 31.3.1990 to 23.5.1990 as period spent on duty. The applicant shall be paid

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Attn: [Signature]

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5. In the instant case, what the Tribunal set aside was the final order of "reduction of the applicant's pay to the minimum in the scale for ten years". It was the appellate authority and not a court of law that modified the original penalty of compulsory retirement. Under the circumstances, F.R.54-A would be totally irrelevant to the case of the applicant.

6. The main dispute is whether the applicant was acquitted by the Criminal Court on merits and whether his subsequent O.A. before the Tribunal was also allowed on merits. As regards the applicant's acquittal by the Criminal Court, a careful examination of the judgement would show that the learned Magistrate found "that the Investigating Officer had absolutely no material before him to enquire into the truth or otherwise of the allegations contained in the complaint" as all the relevant documentary evidence was destroyed during "Rameeza Bee's agitation". It was, therefore, held by the learned Magistrate that it was "difficult to jump to any conclusion that the accused had dishonestly misappropriated any amounts pertaining to the Savings Bank deposits". The applicant was, therefore, acquitted as the "prosecution failed to prove the guilt of the accused beyond reasonable doubt". These observations in the judgement would make it abundantly clear that the applicant's case was decided on merits and not on mere technical grounds.

7. In view of the acquittal of the applicant, the High Court of Andhra Pradesh in W.A.No.1092/1983 directed the respondents to take the applicant back into service and pay him salary and allowances.

full pay and allowances for the said periods in accordance with extant rules, after deducting payments already made.

Respondents shall comply with this order within six months.

12. No order as to costs.

CERTIFIED TO BE TRUE

Dushyant Kumar
Date.....19.11.1974.....

Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

Copy to:-

1. The Sr. Superintendent of Post Offices, Hyderabad South East Division, Hyderabad-27.
2. One copy to Sri. T.Surya karan Reddy, advocate, 16/11/741/D/57, Moosarambagh, Hyd-36.
3. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
4. One copy to Library, CAT, Hyd.
5. One spare copy.

Rsm/-

20/11/74
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