

(38)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD.

C.A.NO. 28/93.

DATE OF JUDGMENT: 27-09-95.

BETWEEN:

C. Kumar

.. Applicant.

AND

1. The Director of Postal Services,
Hyderabad City Region,
Hyderabad-1.

2. Sr. Superintendent of Post Offices,
Hyderabad City Division,
Hyderabad.

3. Manager, Mail Motor Service,
Hyderabad-195.

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI K. Mangachary

COUNSEL FOR THE RESPONDENTS: SHRI N.V. Raghava Reddy,
Sr./Addl. CGSC.

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

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

JUDGEMENT

As per Hon'ble Shri R.Rangarajan, Member(Admn)

Heard Shri K.Mangachary, learned counsel for the applicant and Shri N.V.Raghava Reddy, Standing Counsel for the respondents.

2. Charge Memo dated 22.4.1985 was issued to the applicant, who was working as Time Scale (T/S) Driver in the Mail Motor Service (MMS) Hyderabad for unauthorised absence from 12.1.1985 to 12.3.1985. The applicant was removed from service on the basis of the charges on 22.9.1986. The applicant was removed from service by way of punishment after an inquiry. The appeal of the applicant thereon, was rejected. The revision petition to the Member, Postal Services was also rejected by order dated 21.1.1991. The same was challenged in OA 526/91 on the file of this Tribunal to quash the order of removal from service. OA 526/91 was disposed off setting aside the order of punishment, as well as, the appellate and revisional orders on the ground that a copy of the Enquiry Report was not furnished to the applicant before the said order of punishment was passed and liberty was given to the Disciplinary authority to continue the inquiry after furnishing a copy of the Enquiry report. By order dated 9.12.91, the applicant was reinstated and opportunity was given to the applicant to make a representation to the enquiry report which was enclosed in the above order of reinstatement dated 9.12.91. By order dated 16.12.91, the applicant was placed under deemed suspension with effect from 22.9.1986. The Disciplinary authority passed orders dated 26.3.92 vide Memo No.MSE/59/PF/91-92/91 holding that the charge is proved and the applicant is removed

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from service with immediate effect. Against the orders of the Disciplinary authority, the applicant preferred an appeal before the Appellate authority (R1). By order dated 14.9.92, the appellate authority taking a lenient view modified the penalty of removal to that of withholding of next one increment of the applicant for a period of four years which will have cumulative effect. By orders dated 18.9.92, the applicant was reinstated into service w.e.f. 21.9.92. This OA is filed praying to set aside the Memo dated 14.9.92 and 18.9.92 of R1 & R3 respectively, and 26.3.92 to the effect they are against the applicant and further appropriate direction to the appellate authority to reinstate the applicant from 12.1.1985 and pass appropriate orders.

3. The contentions raised in this OA are same as the contentions raised in OA No.27/93. The only difference in this case is that after removal from service, by the order of R3, the appellate authority, R1, reduced the punishment as stated above. In the former case, the Disciplinary authority himself passed the orders of removal initially, which was later modified by the appellate authority as compulsory retirement. By order dated 10.12.1991 in OA 528/91 filed by the applicant in OA 27/93, the punishment was further reduced to withholding of one increment for a period of four years with 'cumulative' effect. The Tribunal while disposing of OA 27/93 held that the punishment order of the appellate authority is as per 'rules' and hence there is no need to set aside the order of the appellate authority dated 12.9.92 but the order of withholding of one increment with cumulative effect, was modified to that of 'without' cumulative effect for reasons stated in OA 27/93.

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To

1. The Director of Postal Services,
Hyderabad City Region, Hyderabad-1.
2. The Sr. Superintendent of Post Offices,
Hyderabad City Division, Hyderabad.
3. The Manager, Mail Motor Services,
Hyderabad-195.
4. One copy to Mr. K. Mangachary, Advocate, CAT. Hyd.
5. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

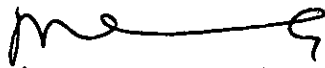
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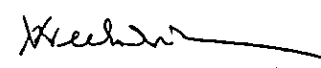
4. In this case also as the applicant is similarly placed to the applicant in OA 27/93, we feel that the order of the appellate authority in this case dated 14.9.92, should also be modified to the extent of withholding of next one increment of the applicant for a period of four years without cumulative effect, to avoid discrimination. The reasons given in OA 27/93 in giving such a direction in that OA, holds good in this case also as the case is similar and contentions raised herein are also similar. In view of the above, we following the directions given in OA 27/93 in this OA also.

5. In the result, the OA is ordered as under:

- i) The order of punishment was awarded by the Appellate authority is modified by directing the with-holding of one increment, is 'without' cumulative effect.
- ii) The order of the appellate authority in confirming the order of Disciplinary authority to treat the period of unauthorised absence as dies-non is confirmed.
- * iii) The period of suspension in pursuance of the order of suspension has to be treated as 'on duty' and he has to be paid the pay and other allowances as adumbrated in OM No.11012/15/85-Est.dt.3.12.85.
- iv) The Disciplinary authority i.e., R3 has to proceed in accordance with FR 54(A)(2)(i) in regard to the periods from the date of each removal till the date of each re-instatement as per the order of the Tribunal.

6. OA is ordered accordingly. No costs.//


(R. RANGARAJAN)
Member (Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 27th September, 1995
Open court dictation.

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRIRAO
VICE CHAIRMAN

AND

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

DATED: 27-9-1995

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

O.A.No. 28/93.

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

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

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