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

C.A. NO. 29/93.

DATE OF JUDGMENT: 27-09-95.

BETWEEN:

P. Shivarao

.. Applicant.

AND

1. Director of Postal Services,
Hyderabad City Region,
Hyderabad-1.
2. Sr. Superintendent of Post Offices,
Hyderabad City Division,
Hyderabad-1.
3. The Manager,
Mail Motor Service,
Hyderabad.

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI K. Mangachary

COUNSEL FOR THE RESPONDENTS: SHRI N.V. Raghava Reddy,
S/o/ 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 21.3.1985 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 12.1.85 to 17.1.85. He was placed under suspension from 18.1.1985 till 29.9.1986, the date on which, he was removed from service by way of punishment after inquiry. The appeal thereon was rejected. The same was challenged in OA 343/87 which was disposed by order dated 11.3.1988, remitting back the case to the appellate authority to specifically consider the severity or otherwise of the punishment with regard to the act of misdemeanour alleged having regard to the observations made by the Supreme Court in the case of Ramachander Vs Union of India (1986 SC 252) after giving a personal hearing if the applicant so ~~desire~~ desired stipulating two months' time for passing of such an order. The appellate authority by order dated 11.5.88 confirmed the punishment of removal imposed on the applicant as adequate. OA 528/88 was filed for setting aside the order of the Disciplinary authority dated 29.9.86 and the order of the appellate authority dated 11.5.88. That OA was disposed off on 16.8.89, setting aside the above orders and giving liberty to the Disciplinary authority to continue the enquiry if he chooses after furnishing a copy of the enquiry report to the applicant and an opportunity to submit an explanation. After

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complying with the order of the Tribunal in OA 528/88, the Disciplinary authority passed the orders dated 3.7.90 removing the applicant from service. The appellate authority i.e. Director of Postal Service, vide his order dated 9.4.91, modified the punishment of removal from service to that of compulsory retirement. The applicant filed OA 529/91 before this Bench to set aside the order of compulsory retirement and to reinstate him into service. OA 529/91 was disposed off on 10.12.91 confirmed the findings that the charges against the applicant were proved. However, the order of compulsory retirement was set aside and the matter was remitted back to the Disciplinary authority to impose appropriate punishment that would commensurate with the wrong committed by the applicant for absenting himself unauthorisedly from 12.1.85 to 17.1.85.

3. The Disciplinary authority by order dated 24.4.92 ordered the reinstatement of the applicant, but reduced his pay to the minimum grade for a period of 4 years and gave directions for treating the period of absence and period of suspension as dies-non. It was also ordered by the Disciplinary authority vide memo dated 3.6.1992 that the period of removal from 17.7.90 to 24.4.92 is to be treated as dies non. On appeal, the appellate authority, i.e. Director of Postal service, Hyderabad vide his order dated 17.9.92, modified the order of the Disciplinary authority relating to reduction of pay and directed the Disciplinary authority to regularise the period of suspension and the period of unemployment by following the procedure laid down in FRs and CCS(CCA)Rules.

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4. This OA is filed praying to set aside the following orders in so far as they are against him.

- i) Memo No. ST/16-HD/58/92 dated 17.9.92, Director of Postal Services, Hyderabad City Region, Hyderabad (R1).
- ii) Memo MSF/42/PF/92-93 dated 16.10.92 of Manager, Mail Motor Service, Hyderabad - 500 195. (R3)
- iii) Memo MSF/42/PF/91-92 dated 3.6.92 of Manager, Mail Motor Services, Hyderabad - 500195 (R3) and,
- iv) Memo MSF/33/PF/91-92 dated 24.4.92 of Manager Mail Motor service, Hyderabad-500195 (R3) and for further direction to apply correctly the provisions contained in Rule 11 CCS(CCA)Rules,1965 and the decisions of the Government of India and the Leave Rules, 1972.

5. This OA is similar to OA 27/93 in all aspects. Hence, we see no reason to differ from the directions given in that OA to the applicant in this OA also.

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

- i) The order of punishment as awarded by the Appellate authority 17.9.92 to the effect of with-holding next increment of the ~~xxx~~ appellant for a period of four years which will have cumulative effect stands modified as 'without' cumulative effect.
- ii) The order of the appellate authority in confirming the order of Disciplinary authority to ~~xxx~~ treat the period of un-authorised absence as 'dies-non' stands 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 orders of the Tribunal.

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

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(R.RANGARAJAN)
Member (Admn)

Neeladri

(V.NEELADRI RAO)
Vice-Chairman

Dated: 27th September, 1995
Open court dictation.

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Amulya
Deputy Registrar(J)CC

To

1. The Director of Postal Services,
Hyderabad City Region, Hyderabad-1.
2. The Sr. Superintendent of Post Offices,
Hyderabad City Division, Hyderabad-1.
3. The Manager, Mail Motor Service, Hyderabad.
4. One copy to K.Mangachary, Advocate, 1-9-626, Adigmet, Hyderabad
5. One copy to Mr.N.V.Raghava Reddy, Addl. OGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

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COMPARED 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.R.RANGARAJAN :M(A)

DATED: 27-9-1995

ORDER/JUDGMENT

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

in

O.A.No. 29/93

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.

P.V.M.

