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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.482/93.

Date of Judgement : 10.2.94.

V.V.Ramana Reddy

.. Applicant

Vs.

1. The General Manager,  
Telecommunications,  
Dept. of Telecommunications,  
Warangal (A.P.).

2. The Telecom. Dist. Engineer,  
Dept. of Telecommunications,  
Karimnagar-2.

3. V.Ravinder

.. Respondents

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Counsel for the Applicant :: Shri P.Naveen Rao

Counsel for the Respondents:: Shri V.Bhimanna, Addl. CGSC  
Shri K.Vasudeva Reddy (for R3)

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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

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

By an order dt. 7/10.4.92 the Respondents directed that the Applicant be relieved of his post of Cashier. Aggrieved by the same, the Applicant has filed this application praying that the impugned order be set aside and that a direction be given to the Respondents to continue him as a Cashier.

2. The Applicant was working as a Telecom. Office Assistant (T.O.A. for short) in the Office of the Sub-Divl. Officer Telecom. (S.D.O.T. for short) Karimnagar when he was selected to be appointed as a Cashier on on a tenure basis

for a period of 4 years. The said post carries the same scale of pay as that of a T.O.A. but a special pay of Rs.125/- p.m. is given so long as the individual holds the post of a Cashier. The Applicant assumed the appointment of Cashier on 4.9.90 in the Office of the Telecom. District Engineer (T.D.E. for short) Karimnagar. While working as a Cashier he was all of a sudden removed from the post and reverted to his original post of T.O.A. by means of the impugned order.

3. The Respondents in their counter affidavit have stated that during the period when the Applicant was working as a Cashier it was detected that there was a fraud to the tune of Rs.1,38,000/-. As soon as the fraud was detected, all the concerned employees were either shifted from their posts or placed under suspension. The concerned A.O., J.A.O. and the Counter Clerk were suspended while the Applicant and the Daftry were shifted from their posts. According to the Respondents, this action was taken in the interest of service and for the purpose of facilitating a smooth <sup>and</sup> objective enquiry into the alleged financial irregularities.

4. We have heard learned counsel for both the parties. Shri P.Naveen Rao, learned counsel for the Applicant has urged that as the Applicant was appointed to the post of Cashier on a tenure basis, the Respondents are not justified in reverting him from the said post before the completion of the tenure period of 4 years. In support of this contention he has referred to:-

- (1) Dr. Bool Chand, Vice-Chancellor, Kurukshetra University Vs. The Chancellor, Kurukshetra University. 1968 SLR 119.
- (2) Debesh Chandra Dass Vs. Union of India & Ors. 1969 SLR 485.

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5. In the case of Dr. Bool Chand, Vice-Chancellor, Kurukshetra University Vs. The Chancellor, Kurukshetra University, the services of the appellant were terminated while he was holding the tenure post of Vice-Chancellor, Kurukshetra University. While commenting upon the termination of his appointment, it was observed that it could be done only based on the result of the enquiry held in a manner consistent with the basic concept of justice and fairplay. It was accordingly held that the appellant could not be terminated without first informing him of what was alleged against him and without giving him an opportunity to make his defence or explanation. On the question of the tenure of the Vice-Chancellor, a reference was made to the relevant statutory provision as contained in sub-clause (vii) of clause 4 of the Kurukshetra University Act. The statutory position is to the effect that the Vice-Chancellor shall hold office ordinarily for a period of 3 years which term may be renewed. Notwithstanding the existence of such a statutory provision it was held in Dr. Bool Chand's case that it does not confer upon the Vice-Chancellor an indefeasible right to continue in office for 3 years and that the statutory provision merely places a restriction upon the power of the appointing authority when fixing the tenure of the office of Vice-Chancellor. In the instant case before us the tenure of 4 years in the post of Cashier is laid down by an administrative instruction. When such a tenure is specified it ordinarily limits the power of the appointing authority to post a person as a Cashier for a period not exceeding 4 years. The power to appoint ordinarily implies the power to determine the employment also. Consequently the

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competent authority viz: the T.D.E. who appointed the Applicant as a Cashier is legally empowered to terminate that appointment and revert the Applicant to his original even before the expiry of the tenure period of 4 years post of T.O.A./ The impugned order dt. 7/10.4.92 having been issued by the same T.D.E. we find no irregularity in the same.

6. In the case of Debesh Chandra Dass Vs. Union of India & Ors. the facts were altogether different. The appellant therein was sought to be reverted from a higher post carrying a higher scale of pay to a lower post carrying a lesser scale of pay. It was, therefore, held that it could be done only in accordance with Art.311(2) of the Constitution. It is, therefore, clear that the case of Debesh Chandra Dass will be of no assistance to the case of the Applicant herein. The learned counsel for the Applicant contended that the order reverting the Applicant to his original post of T.O.A. amounted to reduction in rank because it involved forfeiture of the special pay of Rs.125/- p.m. attached to the post of Cashier. Admittedly the posts of T.O.A. and that of a Cashier carried the same scale of pay. Only because of certain additional responsibilities involved in the functioning as a Cashier, as the special pay of Rs.125/- p.m. is allowed as an incentive to those appointed to the post of Cashier. Appointment as a Cashier is by no means a promotion from the post of T.O.A. As both the posts can be said to be of equivalent "rank", reverting an employee from the post of Cashier to that of T.O.A. would not amount to reduction in rank. The impugned order is merely an administrative direction and not a penalty as such. Principles of natural justice cannot, therefore, be attracted to such an administrative measure.



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7. The impugned order stated that it was issued "in the interest of service". This aspect was challenged by the learned counsel for the Applicant. His argument is that admittedly the Respondents decided to issue the impugned order for no other reason than that of the suspected involvement of the Applicant in the financial irregularity. It was, therefore, more in the nature of a punitive order in administrative direction. We are unable to accept this plea of the Applicant's counsel. As already noted, the impugned order is not punitive as such nor can it be stated that it carried with it any stigma. If the authorities concerned take some administrative steps which, in their opinion, would facilitate a proper, impartial and objective examination of the irregularities, such steps would obviously be "in the interest of service". From this point of view it would be proper to conclude that the impugned order was issued by the Respondents "in the interest of service".

8. Looking at it from any angle, the impugned order cannot be held to be either irregular or illegal. It is neither punitive in nature nor did it involve reduction in rank. It was issued by an authority competent to do so and in the interest of service. We thus find no merit in the O.A. and it is hereby dismissed without any order as to costs.

T. Chandrasekhar Reddy  
 ( T.Chandrasekhar Reddy )  
 Member (J).

A. B. Gorchi  
 ( A.B.Gorchi )  
 Member (A).

Dated: 10 Feb., 1994.

br.

Deputy Registrar (J) cc

5/10/94  
 18/2/94

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. A. B. GORTHI : MEMBER (A)

AND

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

AND

THE HON'BLE MR. K. RANGARAJAN : MEMBER  
(ADMN)

Dated: 10-2-1994.

~~ORDER~~/JUDGMENT:

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

O.A.No.

in  
482/93

T.A.No.

(W.P.No. )

Admitted and Interim Directions  
issued

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

Central Administrative Tribunal  
DESPATCH

25 FEB 1994

HYDERABAD BENCH

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*[Handwritten signature and initials]*