

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A. No. 486 of 1993.

DATE: SEPTEMBER, 1996.

Between:

C. T. Nagaraj. Applicant.

And

1. The Employees State Insurance Corporation, "ESIC" Building, Kotla, Road, New Delhi, re-~~sen-~~ ministration (Appellate Authority)
2. The Regional Director, ESI Corporation, Hill Fort Road, Hyderabad.

Respondents.

Counsel for the Applicant: Sri K. Satyanarayana.

Counsel for the Respondents: Sri N. R. Devraj, Senior Standing Counsel for the Respondents.

CORAM:

HON'BLE SHRI JUSTICE B.C. SAKSENA, VICE-CHAIRMAN, ALLAHABAD BENCH.

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

- :-

O R D E R.

(PER HON'BLE SHRI JUSTICE B.C. SAKSENA, VICE CHAIRMAN, ALLD. BENCH)

The brief facts giving rise to this O.A., are that the applicant obtained permission to send the applicant's mother to Badrinath by availing All India L.T.C., for the block period 1986-1989. After the applicant's mother returned from the pilgrimage ^{he} in the month of August, 1987/furnished the Ticket Nos., on the basis of the information furnished by her relatives. The applicant submitted adjustment T.A. bill on the basis of the information furnished by the applicant's mother. After some correspondence the

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Regional Director of ESI Corporation rejected the applicant's L.T.C., claim and ordered for refund of Advance amount of Rs.830/- along with penal interest at 12 per cent per annum on December 9, 1986. The applicant requested that the amount be recovered from his pay and allowances for the month of December, 1987. The advance amount was recovered accordingly.

2. However, the Regional Director initiated Disciplinary Proceedings and called for the explanation of the applicant for the alleged bogus L.T.C., claim. The applicant has submitted his explanation to the effect that no claim in regard to L.T.C., is pending with the Regional Director. The Regional Director by Order No.52-C-17/14/2/89-Estt.I dated 31.3.'89 imposed a punishment of warning directed the applicant

3. Once again the 2nd respondent issued a charge-sheet dated 15--3--1991 on the same charge and initiated proceedings under C.C.S. (Conduct Rules) 1964. After the submission of the explanation, the 2nd respondent ~~excessive~~ imposed penalty of withholding three increments in the scale of pay of Rs.1400--2300 due to the applicant on 1-5-1992, 1-5-1993 and 1-5-1994 with cumulative effect.

4. The applicant challenges this Order of punishment to be wholly without jurisdiction, arbitrary unjust and improper. The plea taken by the applicant is that the question of submission of false L.T.C., Bill came to a close with the imposition of warning upon the applicant. For the same charge, the second enquiry proceedings were wholly unwarranted and would amount to double jeopardy that is to say punishment ~~twice~~ ^{it} ~~punishment~~ for the same alleged ~~alleged~~ lapses.

for

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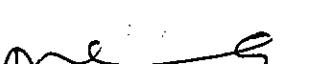
5. Sri Devraj, Senior Standing counsel for the Respondents submitted that before imposing the punishment of warning the respondents had acted on the basis of the information gathered from the Railway Authorities. Subsequent enquiries with the Railway Authorities disclosed certain other facts. Consequently, the second charge-sheet was issued. He submitted that the applicant tried to defraud the Corporation by submitting false T.A. Bill. The learned counsel for the respondents submitted that by the imposition of punishment of warning the matter has not become final and ~~final~~ pleaded in the counter affidavit, that at the time of issue of Memo dated ~~on~~ 31-3-1989 the office was only aware that no journey was performed from Delhi to Badrinath as no proof touching Badrinath was produced. When the Office came to know that the journey from Secunderabad to Delhi itself has not been performed due to which even the declaration that the journey had been performed from Secunderabad to Delhi has become false leading to disciplinary action.

6. After having given our due consideration to the pleas and stand of the Respondents, we find ourselves unable to accept the same, when once the T.A. Bill was rejected and the advance amount recovered from the applicant and the T.A. Bill was no longer pending with the Authorities and the charge was closed finally, on the basis of subsequent information gathered from the Railway Authorities now, it is not open to the Authorities to initiate Disciplinary Proceedings since no L.T.C. Bill or claim/said to have been pending with the authorities.

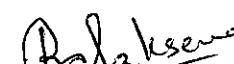
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7. The learned counsel for the Respondents submitted that if this view is taken, it would amount to sending a wrong signal to the Government Servants and they may feel that they can go scot-free. This submission is wholly unfounded. The signal that we wish to convey is that the authorities in the instant case did not act with due diligence. If further probe was necessary in their opinion, they should have issued a supplemental charge-sheet without closing the earlier disciplinary proceedings and without issuing a warning to the applicant and directing the applicant for refund of the advance amount with penal interest. The amount having been recovered and a warning having been issued, in our considered opinion the question of submitting false L.T.C. Bill/closed once for all. The issuance of the second charge-sheet was wholly unwarranted and illegal. Consequently the punishment of withholding of three increments falls to the ground and deserves to be quashed.

8. In view of the foregoing discussion, the O.A., has to be allowed and it is accordingly allowed. The Order of punishment is quashed. The Respondents shall restore the annual increments of the applicant withheld pursuant to the impugned order of punishment and re-fix the applicant's pay and allowances accordingly. We are also informed that the applicant has in the meantime been promoted to the next higher post. His fixation in the higher post also shall be duly corrected and his pay and allowances be re-fixed within one month from the date of receipt of the Order. in the higher post also. Parties to bear their own costs.


R. RANGARAJAN

MEMBER (A)


B.C. SAKSENA, J

VICE-CHAIRMAN,
ALLAHABAD BENCH.

Date: 4 SEPTEMBER, 1996.

Pronounced in
open Court.


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O.A.486/93.

Copy to:-

1. The Director of Administration (Appellate Authority), Employees State Insurance Corporation, 'ESIC' Building, Ketla road, New Delhi.
2. The Regional Director, ESI Corporation, Hill Fort Road, Hyd.
3. ~~Advocate, CAT, Hyd.~~
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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

Hon Mr. Justice B.C. Saksena, V.C.

THE HON'BLE SHRI R. RANGARAJAN, M.A.

DATED:

4/9/96

ORDER-JUDGEMENT
R.A./C.P./M.A.NO.

D.A.NO.

486/08

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS:

YLKR

II COURT

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