

110

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.807 of 1994.

Date of decision:

Between:

D. Krishna Reddy. .. Applicant.

and

1. The Union of India represented by the Secretary, Department of Posts, Dak Bhavan, New Delhi 110 001.
2. The Chief Postmaster General, Andhra Pradesh Circle, Hyderabad 500 001.
3. The Chief Postmaster General, Maharashtra Circle, Bombay 400 001.
4. The Assistant Director General (Vigilance) Office of the Director General, Dept. of Posts, Dak Bhavan, New Delhi 110 001,
5. The Director of Accounts (Postal) Andhra Pradesh, Nagpur 440 001.
6. The Director of Accounts (Postal), Andhra Pradesh Circle, Hyderabad 500 001.
7. The Postmaster General, A.P. Southern Region, Kurnool. Respondents.

Counsel for the applicant: Sri T.V.V.S. Murthy.

Counsel for the Respondents: Sri K.Bhaskara Rao.

CORAM:

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

HON'BLE SHRI B.S. JAI PARAMESHWAR, MEMBER (J)

JUDGMENT.

(as per HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (J))

...

Heard Sri T.V.V.S. Murthy for the applicant and

Sri K.Bhaskara Rao for the Respondents.

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This is an application under S.14(1) of the Administrative Tribunals Act. Application was filed on 30th June, 1994.

The applicant has prayed in this O.A., the following reliefs:

To call for the relevant records relating this case and to set aside the punishment of 5% cut in his pension for three years from 1--4--1993 imposed vide Memo No.7-13/88-Vig.II dated 14--12--1992, illegal, unjust, improper and arbitrary and violative of Articles 14 and 16 of the Constitution of India, with all consequential service and monetary benefits such as payment of interest for delayed payment of retirement benefits viz., D.C.R.G., Commutation of Pension, Leave Encashment and and C.G.E.I., amounts from 1-7-1989 till the date of their payment at 18% per annum and payment of commutation value of his pension taking the full amount of his pension (and not at reduced rate as was done).

The facts of the case in brief are to the following effect:

During the period from May, 1980 to July, 1983 the applicant was working as Senior Asuperintendent of Post Offices, Kurnool. While he was working as such,

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the Vigilence Officer of the Postmaster General inspected the office of the applicant and collected certain records pertaining to L.T.C., claims. During the month of May, 1989, the applicant was working as Senior Superintendent of Post Offices of Sholapur Division, Sholapur.

On 3-5-1989, the applicant was served with the Articles of Charges relating to certain acts of dereliction of duty and administrative lapses ^{alleged to have been} committed by the applicant while working as Superintendent of Post Offices at Kurnool. The Articles of Charges disclose the following acts of mis-conduct. (Annexure A-1 page 2)

Article I.

That the said Shri D.Krishna Reddy while functioning as Supdt. of Post Offices, Kurnool Division, Kurnool in A.P. Circle during the period from 19-5-1980 to 30-7-1983 wilfully passed several false LTC claims amounting to Rs.1,04,287.00 (Rupees One Lakh four thousand two hundred and eighty seven only) preferably by the officials of Kurnool Division, without making proper enquiries and without carrying out verification and ignoring the doubtful features of the claims pointed out by the Office, and thereby violated the norms of expenditure from Government funds as laid down in Rule 60 of P & T Financial Handbook Vol.I and the

: 4 :

instructions contained in letter No.Vig./1-33/81 dated 11-1-1982 of Postmaster General, A.P. Circle, Hyderabad.

By his action explained above, the said Sri D.Krishna Reddy failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a Government servant, thereby contravening the provisions of Rule 3(1)(i), (ii) and (iii) of CCS(Conduct) Rules, 1984.

Article II:

That the said Shri D.Krishna Reddy while functioning in the aforesaid post, during the aforesaid period, deliberately suppressed eleven (11) false LTC claims and did away with the relevant LTC bills and wilfully abandoned further action which would have resulted in serious consequences against the officials who had preferred the false claims.

By his action explained above, the said Shri D.Krishna Reddy failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a Government servant, thereby contravening the provisions of Rule 3(1)(i), (ii) and (iii) of CCS(Conduct) Rules, 1964."

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The applicant denied the charges.

The applicant retired from service on 30-6-1989 on attaining the age of superannuation.

The Commissioner for Departmental Enquiries conducted a detailed enquiry into the Charges levelled against the applicant. On 27-5-1991 the Enquiry Officer submitted his report. The applicant submitted his explanation to the report of the Enquiry Officer.

The Disciplinary Authority taking into consideration the findings recorded by the Enquiry Officer and also the various grounds raised by the applicant in his explanation by his Order dated 10/14-12-1992 (Annexure A-10) imposed the punishment on the applicant which is to the following effect:

"The President has carefully considered the advice of the Commission along with all relevant records of the case. Having re-
case and the gravity of the charges proved against Sri D.Krishna Reddy, the President has accepted the advice of the Commission.
Accordingly, he has ordered that 5% of the monthly pension otherwise admissible to Shri D.Krishna Reddy is withheld for a period of three years."

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After his retirement, in view of the pendency of the Disciplinary Proceedings against the applicant his pensionary benefits were settled after the expiry of certain period and conclusion of the Disciplinary Proceedings.

The applicant has challenged the Order dated 10/14-12-1992 (Annexure A-10) and has claimed interest on account of the delayed settlement of his pensionary benefits on the following grounds:

- i) that the Charge Memo served on him was vague
- ii) that he was denied reasonable opportunity in the disciplinary proceedings
- iii) that there was an abnormal delay of nearly 7 years in initiating disciplinary proceedings
- iv) that the said delay amounted to denial of an opportunity to him
- v) that Government is not entitled to reduce the amount of pension and gratuity payable to its employees on superannuation without giving a reasonable opportunity to show cause against the proposed reduction
- vi) that pension can be withheld only in case of finding of grave mis-conduct against the pensioner

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vii) that a pensioner who is found or proved to have been committed a minor offence by wrong interpretation of a rule or ignorance thereof is not a grave misconduct

viii) that pension is the property and that it is a valuable right of the applicant

ix) that imposition of penalty of 5% cut in his pension effective from 1-4-1993 is based on conjectures and is, therefore, arbitrary

x) that he was not the custodian of the records and he was not trusted with the responsibility to check and verify the bills and his duty was to oversee the compliance of procedural aspects and rules and that he being a Supervisory Officer, the benefit of doubt must have been given to him

xi) that the findings recorded by the Enquiry Officer on the Articles of Charge is only an administrative laps e on the part of the applicant.

xii) that imposition of reduction in pension is unjust and harsh

xiii) that there is serious miscarriage of justice due to inordinate delay in initiating disciplinary proceedings

xiv) that besides there was delay in concluding the proceedings, and

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xv) that therefore, he has been constrained to file this O.A.,

The respondents have filed their counter contending that the impugned order is dated 10/14-12-1992, that the original application has been filed on 30-6-1994, that the application is barred by limitation, that earlier the applicant had filed O.A.93/89 challenging the initiation of Disciplinary Proceedings, that the said O.A., was decided on 27-7-1990, that in the said O.A., the Tribunal was pleased to observe that the allegations involved collection and verification of a number of records and examination of witnesses and that there was some unavoidable delay in initiating the Proceedings, that under Rule 4 of the CCS(Commutation of Pension Rules), no Government servant against whom the Departmental Proceedings have been initiated before his retirement shall be eligible for commutation of a fraction of his pension during the pendency of such proceedings, that therefore commutation has to be applied only after conclusion of the Disciplinary Proceedings, that the original pension of the applicant stood reduced to Rs.1751/- on account of imposition of 5% reduction in the pension (out of 1/3rd of

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the pension) and was correctly sanctioned for commutation, that this commutation is restorable after the expiry of the period of three years, and then the applicant is free to commute Rs.31/- per mensem after 31-3-1996, that according to Rule 69(c) of the CCS(Pension)Rules, 1972 gratuity cannot be paid till the conclusion of Disciplinary Proceedings, that the applicant was paid leave encashment salary on 27-12-1990, that on conclusion of the Disciplinary Proceedings he was paid Rs.61,875/- towards gratuity and commutation of pension was sanctioned on 17-1-1993, that the contention of the applicant regarding the vagueness or otherwise of the allegations made in the articles of charge is far from truth as the same have been amply substantiated during the enquiry, that the contention of the applicant that he was not responsible for passing the LTC Claims cannot be accepted, that the applicant was in-charge of the Division and it was his duty to ensure only the genuine Bills were passed, that every efforts were made to conclude the Disciplinary Proceedings expeditiously and that the impugned order has been made after due application of mind.



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A reply has been filed by the applicant reiterating the averments made in the O.A., and also the details of the pensionary benefits received by him, on various dates. It is the case of the applicant that the delay was intentional and he was put to hardship on account of the belated settlement of his pension claims and that in para 7 of his reply he was given details of dates of payments ~~as~~ and delay caused thereon.

During the course of the arguments, the learned counsel for the applicant confined only to the quantum of punishment awarded to him by the Disciplinary Authority and submitted that the punishment imposed on him is too harsh. The learned counsel took us through the report of the Enquiry Officer wherein the Enquiry Officer also formed opinion that it was only an administrative lapse and that there was no culpability on the part of the applicant in committing the mis-conduct.

The learned counsel for the applicant in support of his contention relied upon principles enunciated by the Hon'ble Supreme Court of India

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in B.C.CHATURVEDI Vs. UNION OF INDIA (reported in A.S.R.

1996 S.C.484) and further contended that in case the

Tribunal comes to the conclusion that the punishment imposed on the applicant is too harsh then the Tribunal may direct the Disciplinary Authority to consider fresh the quantum of punishment and to take a suitable decision in regard to the imposition of punishment.

Having regard to the reasonings adopted by the Enquiry Officer and his findings, we have no hesitation to accept the contentions of the applicant that the punishment imposed on him is harsh and disproportionate to the proved misconduct.

Hence, we feel it proper to give an opportunity to the applicant, if he is so advised, to submit a detailed representation to the Disciplinary Authority highlighting the various contentions raised in this O.A., and his order.

As detailed in para 8 of the reply, his pensionary benefits have been paid after conclusion of the Disciplinary Proceedings. The applicant retired from service on 30--6--1989. There was nearly more than 3 years delay in settling the pensionary benefits of the applicant. Therefore, we feel that the applicant has

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has to be paid interest on delayed settlement of pensionary benefits. The Authorities should have ^{Certain} considered the settlement of pensionary benefits

immediately after his retirement except payment of

gratuity and Commutation as both the payment
Can be settled only after the ~~first~~ pension is finalised.

Rule 69(c) of ^(b) CCS (Pension) Rules clearly prohibits payment of gratuity till the conclusion of disciplinary proceedings.

The respondents have not offered any plausible explanation for the belated or delayed settlement of pensionary benefits other than gratuity. The respondents should have settled those benefits to the applicant on or before 30-9-1989.

The respondents have settled the pensionary benefits

only during 1991. Hence, we feel it necessary to

direct the respondents to pay interest as per rules

from 1-10-1989 to the date of payment of G.P.F.,

leave encashment salary and other pensionary benefits other than gratuity ~~also~~ to the applicant.

The respondent could have concluded the disciplinary proceedings at least by the end of 31st August, 1991.

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Hence, we feel it proper to issue the following directions in this O.A.

(a) The applicant, may, if he is so advised submit a detailed representation to the Disciplinary Authority, with regard to the quantum of punishment, within one month from the date of receipt of the copy of this order. In case, such a representation is received within the stipulated period, the Disciplinary Authority shall have a second look at the matter and take a just decision as to the quantum as to the quantum of punishment.

(b) The respondents shall pay interest at the rate of 10% per annum from 1st October, 1989 till the date of payment of G.P.F. Amount and insurance amount only, *andaneas & pay & leave encashment*.

(c) The applicant is not entitled to claim any interest on DCRG and commuted value pension.

(d) Time for compliance two months from the date of receipt of the representation/appeal from the applicant.

The O.A., is ordered accordingly. No order as to costs.

B.S. JAI PARAM SHWAR
(B.S. JAI PARAM SHWAR)
MEMBER (J)

R. RANGARAJAN
(R. RANGARAJAN)
MEMBER (A)

sss.

Date: 28.4.97

D.R. (J)

self/10/26/97

10

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.R.UGRAJAN : M(A)

AND

THE HON'BLE SHRI D.S. JAI PARAMESHWAR:
M(J)

DATED:

28/4/97

ORDER/JUDGEMENT

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

in

CA. NO. 807/84

ADMITTED/INTERIM DIRECTIONS ISSUED
ALLOWED

DISPENSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

II COURT

