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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.85/94

DATE OF JUDGEMENT: 31-3-94

Between

K.V. Janakiraman

.. Applicant

and

1. Union of India rep by
The Secretary,
Min. of Communications,
New Delhi.

2. Chief Postmaster General
Andhra Pradesh Circle,
Hyderabad-1.

.. Respondents

Counsel for the Applicant

.. Mr T. Jayant

Counsel for the Respondents

.. Mr V. Bhimanna

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(J)

HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER(A) CUTTACK BENCH

JUDGEMENT

[As per Hon'ble Shri T. Chandrasekhara Reddy, Member(J)]

This is an application filed by the applicant herein under Section 19 of the Central Administrative Tribunals Act, to direct the respondents to pay interest for the delayed payment of Gratuity and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. The facts so far necessary to adjudicate this OA, in brief, may be stated as follows:

3. The applicant herein had retired on superannuation on 31.7.88 as Superintendent (Sorting), Hyderabad. At the time of retirement, three major penalty proceedings initiated by the Postmaster General, AP Circle, Hyderabad

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were pending. The said three charge sheets were issued as per Memos dated 12.8.86, 26.6.87 and 17.5.88. In view of the disciplinary proceedings pending as against the applicant, the payment of gratuity to the applicant was with-held. It is the ~~xxx~~ case of the applicant, that as the disciplinary proceedings that were against him were ultimately dropped by the President of India, that he is entitled to be paid interest on gratuity amount from the due date, which, according to the applicant is 1.8.1988 upto the date of payment of gratuity that is 26.2.92.

4. Counter is filed by the respondents opposing this OA.

5. In the counter of the respondents it is maintained that the disciplinary action initiated on 12.8.86 was dropped by the President on the advice of the UPSC and in respect of the disciplinary action initiated on 26.6.87, the President had conveyed the displeasure of Government for the irregularities committed by the applicant and in respect of the proceedings initiated on 17.5.88, the President had conveyed to the applicant his displeasure for his misconduct and so as the applicant had not been exonerated fully by the Disciplinary Authority (President of India) that the applicant is not entitled for payment of interest from 1.8.1988 onwards till the date of payment of the gratuity amount to him, and it is only, after the disciplinary proceedings were dropped by the President of India as indicated above, that the applicant became entitled for payment of gratuity and ~~xxx~~ on 12.10.91 sanction was issued sanctioning 90% of DCRG Rs.45,000/- and on 26.2.92 sanction had been issued for the remaning 10% gratuity and that the applicant was not entitled to be paid any interest

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at all in view of the facts and circumstances of the case.

6. We have heard in detail Mr T. Jayant, counsel for the applicant and Mr V. Bhimanna, Standing counsel for the respondents.

7. Govt. of India, Department of Personnel and Administrative Reforms had issued OM dated 10.1.83 with regard to the admissibility of interest on gratuity allowed after conclusion of departmental proceedings, which is as under.

"1. Under the rules, gratuity becomes due immediately on retirement. In case of a Government servant dying in service, a detailed time-table for finalising pension and ^{death} gratuity has been laid down vide Rule 77 onwards.

2. Where disciplinary, or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of proceedings and the issue of the final orders thereon. The gratuity if allowed, to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the competent authority.

3. In order to mitigate the hardship to the Government servants, who on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of ^{retirement} gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Govt. servants, who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently, dropped."

(emphasis supplied)

So, as could be seen from the said OM, ~~xxx~~ a Government servant, will be entitled to payment of interest on delayed payment of retirement gratuity ~~if~~ if a departmental

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proceeding had been pending as against him ^{it} during the time of retirement, from the next date of his retirement upto the date of payment of gratuity, provided he ~~is~~ had been 'fully exonerated' in the said departmental proceedings.

4. ^{the} ~~Next~~ question that has got to be considered in this case is whether the applicant had been 'fully exonerated' by the Disciplinary Authority (President of India, in this case) in the departmental proceedings. Admittedly, the applicant had retired on 31.7.1988 as Superintendent (Sorting), Hyderabad when disciplinary proceedings were pending as against him, and the said disciplinary proceedings were continued as against the ~~Applicant~~ after his retirement. As already indicated, the President of India, while dropping the disciplinary proceedings had made certain remarks/observations as against the applicant which indeed are derogatory. A person is said to be ~~fully~~ 'exonerated' when he is completely released from the liability. The word 'fully' means, 'completely'. So, unless a person had been completely released from the liability by the competent authority ^{at the time of} ~~by~~ passing final orders in a disciplinary matter, it cannot be said that he had been fully exonerated.

5. Now, to ascertain whether the applicant had been 'fully exonerated', it would be pertinent to refer to the chargesheets issued as against the applicant and the orders passed by the competent authority i.e. President of India.

6. With regard to the charge sheet that was issued on 17.5.88 under Rule 14 of the CCS(CCA) Rules, 1966 the Article of charge as against the applicant is as under:

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"Article of Charge"

That, Shri K.V. Janakiraman, while functioning as the Superintendent of Post Offices, Nandyal Division, during the period 1.7.84 to 4.7.86 tampered with his office file No. B-6/EDA/GDA Vol. II and wilfully substituted correspondence in the file in order to stealthily change his earlier decision as the next higher authority regarding selection/appointment of a person as EDDA at Bestavarapupeta Sub Office in Giddalur Sub Division.

By his above act, the said Shri KV Janakiraman 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."

On the above Article of Charge issued on 17.5.88, the Disciplinary Authority (President of India) had observed as under in his order dated 26.6.90.

" The charged officer stands retired from service on 31.7.88. After making an objective assessment of all the facts and circumstances of the case, the President has accepted the findings of the inquiry officer, that although there was no malafide on the part of Shri K.V. Janakiraman, yet he conducted himself in a manner unbecoming of a Government servant. The President, therefore, has decided to convey to Shri Janakiraman, his displeasure for his misconduct and hereby drops the charges against the officer."

With regard to the charge sheet issued as against the applicant on 26.6.87 under Rule 14 of CCS(CCA) Rules, 1965 the Articles of charges are as under:

"Article I

That the said Sri K.V. Janakiraman, while functioning as Supdt. RMS 'TP' Division, Tirupati, during the period from 6.4.82 to 30.6.84 committed the following grave irregularities in the matter of recruitment of Sorting Assistants in RMS 'TP' Division for the second half year 1982.

i) He unauthorisedly and wilfully enlarged the scope of recruitment by bringing 158 candidates on the list (shown as Part B list) of Reserve Trained Pool (RTP) which was far in excess of the number of 58 fixed for TP Division as per the prescribed norms. Out of the 158 candidates, only 58 were approved by the DPC on 28.11.82 and the names of the additional 100 applicants were kept in the list in Register 'Z' by Shri K.V. Janakiraman arbitrarily without any ~~xx~~ authority. This action is in contravention of the instructions contained in Director General, P&T letter No. 60-31/81-SPB I dated 18.6.82 read with item 8 of the minutes of the Conference of SSRMs/SPMs held on 29/30.9.82.

ii) He deputed 35 applicants from among the ~~x~~ unauthorised and invalid additional list of 100 reserves kept by him, for undergoing theoretical training vide SRM'TP' Division Memos No.B-36/B/II dated 26.3.83 and 30.3.83 without their selection having been made by a duly constituted selection Committee. (DPC). He showed undue interest and haste in recruiting unapproved candidates.

iii) He, in order to cover up his wilful action of deputing unapproved applicants for the theoretical training in March, 1983, manipulated to get the selection of these applicants approved by the Selection Committee subsequently i.e. on 12.5.83 ante-dating the proceedings to falsely show that the approval was done on 28.11.82 itself. Shri KV Janakiraman tampered with the official record by removing the original minutes dated 28.11.82 of the DPC(Selection Committee) containing approval of only 58 candidates for RTP, for the file and in its place, kept a substituted copy of the minutes showing approval of 100 more RTP candidates as if it was done on 28.11.82 itself including the names of those who were irregularly deputed for training as afore said. The substituted minutes were actually drawn up and approved by the DPC on 12.5.83 with back date of 28.11.82.

iv) By his above acts, Shri KV Janakiraman did not 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.

Article II

That the said Sri KV Janakiraman, while functioning as Supdt, RMS'TP' Division, Tirupati ~~has~~ abused the powers vested in him by indiscriminately and wilfully passing several apparently false LTC Leave Travelling Concession (LTC) claims without having the genuiness of the claim verified and scrutinised properly. As the controlling authority, he failed to ensure thorough verification of the claims as prescribed in M.H.A. OM No.31011/8/78-Estt.(i) dated 25.1.80. He passed the claims deliberately ignoring the adverse report given by the Inspector of RMS'TP' 1st Sub-Division against private transport companies whose cash receipts were used by the officials in support of their claims. He deliberately ignored the doubtful features of the LTC claims at the time of passing the bills. Thus, he helped and allowed the officials to get undue monetary benefit out of the LTC claims. The said Sri KV Janakiraman thus violated the provisions of Rule 60 of P&T FHB Manual Vol I by exercising financial powers indiscriminately and recklessly.

By his above acts, Sri K.V Janakiraman did not maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a Govt. servant, thereby contravening the provisions of the Rule 3(1)(i)(ii) and (iii) of CCS(Conduct) Rules, 1964.

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The Disciplinary authority in this case also had disposed of the said matter as ^{per its} ~~per his~~ orders dated 30.7.90 by observing as hereunder:-

" Shri KV Janakiraman retired from Government service on superannuation on the afternoon of 31.7.88. The Disciplinary proceedings initiated against him while he was in service, after his retirement are deemed to be proceedings under Rule 9 of the CCS(Pension) Rules, 1972 and have been continued as such. The report of the Inquiry Officer has been carefully considered by the President. In view of the extenuating factors reported by the inquiry officer, the finding that there are no malafides on the part of Sri K. Janakiraman in regard to the Article of charge number I and after taking into account, the entire documentary and oral evidence adduced during inquiry, the President, has decided that Sri Janakiraman may be communicated 'displeasure of the Government' for the irregularities noticed on his part. Accordingly, the 'displeasure of the Government' is hereby conveyed to Sri KV Janakiraman and further proceedings, in the case are dropped."

As regards the chargesheet issued on 12.8.86 is concerned the applicant had been given benefit of doubt and there is no need for us to refer to ~~any~~ of the order by the President of India in the said matter in the month of July, 1991. But, as could be seen, with regard to the chargesheets issued as against the applicant under Rule 14 of CCS(CCA) Rules, 1965, on 17.5.88 and 26.6.87, even though the Disciplinary authority (President of India) ~~was~~ had been pleased to drop the proceedings, as the applicant, had retired from service, the President had expressed his displeasure with regard to the conduct of the applicant and had commented that the applicant had conducted in a manner unbecoming of a Government servant. Even though the proceedings had been dropped in these two matters, in view of the categorical findings/observations with regard to the conduct of the applicant, by the President of India, who had expressed displeasure on the conduct of the applicant, by no stretch of imagination, it can be said that the applicant had been 'fully exonerated' of the charges that had been framed against him vide

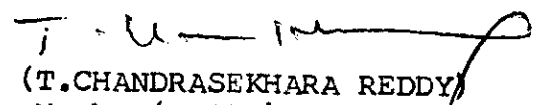
charge memos dated 17.5.88 and 26.6.87. So, as the applicant had not been exonerated fully with regard to the charges that had been framed against him inspite of the disciplinary proceedings having been dropped, the gratuity amount will be deemed to have fallen due to the applicant on the date of issue of final orders by the competent authority, ~~immediately~~ after the disciplinary proceedings have come to an end. Soon after the disciplinary proceedings ~~have~~ had come to an end, in view of the orders of the President, the applicant had been paid gratuity that was due to him. ^{So} ~~But~~, the applicant certainly, is not entitled for interest in this case ~~from the day after~~ ^{from the date} his retirement i.e. 1.8.1988 (the applicant retired on 31.7.88) upto the date the gratuity amount was paid to him i.e. 26.2.92. The delay in payment of gratuity in this case is not at all due to administrative lapses. In view of the major penalty charges sheets that were issued as against the applicant and in view of the pending of disciplinary proceedings as against the applicant, the respondents were justified in with-holding the payment of gratuity amount due to him, till the date ~~xxxx~~ disciplinary proceedings had come to an end. Even though the ~~applicant had retired when the disciplinary proceedings were pending, as already pointed out, as the applicant had not been 'fully exonerated' in the said disciplinary proceeding, we find no~~ justification on the part of the applicant, in claiming interest for the delayed payment

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from the next date of his retirement upto the date the said gratuity amount was paid. So, we see no merits in this OA and hence, this OA is liable to be dismissed and is accordingly dismissed, leaving the Parties to bear their own costs.


(H. RAJENDRA PRASAD)
Member (Admn)


(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 31-3-1994.

To

1. The Secretary, Union of India,
Ministry of Communications, New Delhi.
2. The Chief Postmaster General,
Andhra Pradesh Circle, Hyderabad-1.
3. One copy to Mr. T. Jayant, Advocate, CAT. Hyd.
4. One copy to Mr. V. Bhimanna, Addl. CGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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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 (AD)

AND

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

AND

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

Dated: 31-3-1994

~~ORDER~~/JUDGMENT

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

O.A.No. 85/94 in

T.A.No. (w.p.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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