

R.A. No. 7/95
in
O.A.NO. 24/94.

Pre-delivery judgement in the above RA
prepared as per the dictation of the HM(A), is
placed for concurrence please.

H.M. (A)

✓

S. R
7/9/95

H.M. (J)

WJ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
 AT HYDERABAD

R.A.No. 7/95
 in
O.A.No. 24/94.

Dt. of Decision : 0-04-95.

Mohd. Jaffar

.. Petitioner/
 Applicant.

Vs

1. Director of Postal Services,
 Hyderabad City Region,
 Hyderabad.
2. The Sr. Supdt. of Post Offices,
 Hyderabad City Division,
 Hyderabad.

.. Respondents./
 Respondents.

Counsel for the Applicant : Mr. P.Rathaiah

Counsel for the Respondents : Mr. N.R.Devaraj, Sr.CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

R.A.No. 7/95
in
O.A.No. 24/94.

Dt. of Decision : -04-95.

JUDGEMENT

X As per Hon'ble Shri A.B. Gorthi, Member (Admn.) X

Heard learned counsel for both the parties.

2. Shri P. Rathaiah, learned counsel for the review applicant elaborately took us ^{through} to the contents of the review application with a view to advance the plea that the OA (No.24/94) ought to have been allowed on merits. A careful examination of the review application would show that it is a detailed commentary on the various aspects of the case as reflected in our judgement dated 14-12-1994 in the said OA.

3. In a review application there is hardly any scope either for re-arguing the entire matter or for advancing fresh arguments on the same material. We are therefore unable to accept the contentions now raised in the review application which have already been considered and dealt with in the judgement.

4. The learned counsel for the review petitioner has referred to 1993 (1) SLJ CAT 179 (Om Prakash Vs. Union of India and Others). In the said case, the Jodhpur Bench of the Tribunal (and not the Ernakulam Bench as stated in the review petition) held that normally there is no bar to continue both the criminal proceedings and the departmental proceedings but it is advisable that the departmental action be pended in certain cases. Relevant

portion of the judgement is re-produced below:-

"The principles enunciated in various decisions is that though there is no legal bar in continuing simultaneously the disciplinary as well as the criminal proceedings, however, the court should stay the disciplinary proceedings till the disposal of the criminal case in the following circumstances:- (a) that the accused is likely to be prejudiced in the defence of his criminal case by giving the statement or evidence or doing any act, which may result adversely in the criminal case; (b) the accused should not be compelled to be a witness against himself. There is total prohibition under clause (3) of Art.20 of the Constitution. Admission or confession or a partial confession or admission in a disciplinary proceeding may be taken into consideration as a compulsion to be a witness against himself in some cases particularly when the person accused of the offence wants to get ride of the disciplinary proceedings under the impression that the employer shall deal with the case liberally and will not impose harsh punishment. (c) There should not be any possibility of violation of the principles of natural justice in any way. Sometimes the accused may not be able to disclose his defence which he is likely to take in the criminal case, and in such circumstances, if the proceedings are allowed to be continued, there is every possibility that the accused may not be able to get justice and the principles of natural justice may be violated".

5. The above case related to the holding of departmental disciplinary proceedings in respect of the some case for which criminal proceedings were instituted. In the instant case however it was held clarified in our judgement in the OA that the departmental proceedings pertaining to the

irregularities committed by the applicant in respect of some Savings Bank Accounts, ~~were of~~ ^{whereas} the criminal proceedings pertaining to mis-appropriation of funds ~~and~~ in respect of some other savings bank accounts. It was accordingly held by us that the holding of departmental enquiry, notwithstanding the pendency ^{said} of the criminal case, cannot be ~~held~~ to be irregular.

6. For the afore-stated reasons, we find no merits in this review application and the same is dismissed. No order as to costs.

transcript
(A.B. Goethi)
Member (Admn.)

A. V. Haridasan
(A.V. Haridasan)
Member (Judl.)

Anil Kumar
Dated : 10 April 1995.
Deputy Registrar (Judl.)

Copy to:-

1. Director of Postal Services, Hyderabad City Region, Hyd.
2. The Sr. Supdt. of Post Offices, Hyderabad City Division, Hyderabad.
3. One copy to Sri. P.Rathaiah, advocate, AT, Hyd.
4. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rem/-