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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1179/94.

Dt.of Decision : 23-06-97.

M.Sambasiva Rao

.. Applicant.

Vs

1. The Chief General Manager, A.P.
Govt. of India, Hyderabad (A.P.).
2. The Sr. Superintendent,
Telegraph Traffic, Vijayawada
Division, Dept. of Telecom, A.P.
Vijayawada-2.
3. The Superintendent-in-charge,
Telegraphic Traffic, C.T.O.
Dept. of Telecommunications,
Vijayawada.

4. G. Rosaiah
5. D. Harnath Babu

.. Respondents.

Counsel for the applicant : Mr. P. Naveen Rao

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

CORAM:-

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B. S. JAI PARAMESHWAR : MEMBER (JUDL.)

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ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

Heard Mr. P. Maveen Rao, learned counsel for the applicant and Mr. N. R. Devaraj, learned counsel for the respondents.

2. The applicant was issued with a charge-sheet vide memorandum No. Disc/MSR/249/CTC-VJ/92-93 dated 22-2-93 (Annexure-XV) for the charges framed as below:-

"It is alleged that the said Shri M. Sambasivarao while functioning as Telegraph Overseer, Central Telegraph Office, Vijayawada, by his having used disrespectful language in his petition dated 15-12-92 addressed to Superintendent In-charge, Central Telegraph Office, Vijayawada, Violated the provisions contained in Rule 116 of P&T Manual Volume-II (General Regulations) 3rd edition 2nd reprint and by his having exhibited in the said petition dated 15-12-92 insubordination by making known his intention to prevent, on one plea or other, the head of the office from performing his assigned duties, behaved in a manner unbecoming of a Government servant thereby, violating the provisions contained in Rule 3(1) (iii) of Central Civil Services (Conduct) Rules, 1964."

The applicant submitted his explanation in this connection. There are two letters purported to have been ~~re~~ written by him ^{are} in response to the charge-sheet. Both letters ~~dated~~ 22-2-93. The first letter is at Annexure-17 Page-35 of the OA. The second letter is at Annexure-18 page-37 of the OA. The learned counsel for the applicant relies on the letter dated 22-2-93 at Annexure-17 to state that this letter does ^{not} ~~equivocally~~ admit the charges. When the charges are not equally admitted then the conduct of enquiry is a must. The respondents rely on the letter dated 22-2-93 at Annexure-18 of the OA. They further submit that the letter at Annexure-17 was never received by them and he has only written the defence reply in his letter dated 22-2-93 at Annexure-18. The applicant was compulsorily retired by the disciplinary authority in terms of the letter

No. EG-20/MSR/R-14/93-94 dated 21-8-93 (Annexure-29 of the OA). Thereafter, it appears that the applicant filed an appeal dated 12-4-94. But that appeal was rejected because of limitation by letter No. TA/TFC/35-1/Gr-D/92/77 dated 31-8-94.

3. This OA is filed challenging the impugned order of the disciplinary authority dated 21-8-93 and for a consequential direction to reinstate the applicant in service with all attendant benefits.

4. The appellate authority's order is not challenged in this OA.

5. The learned counsel for the applicant submits that the applicant should be given enough opportunity to explain his case and the rights guaranteed to him under Article-311 should be strictly adhered to. The applicant relying on the letter dated 22-2-93 (Annexure-17) submits that the letter does not unequivocally admit his guilt and hence that statement cannot be taken as admission of his guilt to dispense with the enquiry. He relies on the judgement of the Principal Bench of the CAT reported in 1987 (1) SLR 213 (Udaivir Singh Vs. UOI & Ors) to state that the enquiry under the circumstances is a must. He expressly relies on the para-4 of the judgement to contend as above. The learned counsel for the applicant also submits that when severe penalty is inflicted then the enquiry is a must. For this he relies on the reported judgement in AIR 1961 SC 1070 (Jagdish Prasad Saxena Vs. the State of Madhya Pradesh), para-13 of the judgement. He also submits that the admission of the guilt should be in accordance with the provisions contained in the criminal procedure code and that effect he relied on ~~some~~ judgement of the Supreme Court in this connection in a criminal case.

6. The learned counsel for the respondents submits that the letter dated 22-2-93 (Annexure-17) was never received by them. The only received letter dated 22-2-93 enclosed as Annexure-18. By that letter, the applicant in his own hand writing accepted his guilty and prays for pardon unconditionally. Hence there is no

need to hold an enquiry when the applicant has admitted his guilt. The learned counsel for the respondents further submit that the judgement of the Principal Bench of the CAT reported in 1987 (1) SLR 213 (Udaivir Singh Vs. UOI & Ors) has been fully complied with. show whether the letter dated 22-2-93 at Annexure-17 was despatched to the respondents, the learned counsel for the applicant submitted that he has no proof in this connection. The letter of the applicant dated 22-2-93 (Annexure-18) is not disputed. This letter reads as below:-

"To

The Superintendent Incharge,
C.T.O., Vijayawada.

Sir,

With reference to your office memo.No.Disc/HSR/249, C.T.O. Vijayawada/92-93 dated 22-2-93. I respectfully submit that it is not at all my intention to disrespect the head of the office or to hurt others feelings.

I admit the charges contained in your letter cited above and I hereby tender unconditional regrets for misunderstanding created by my letter dated 15-12-92 which was written with my little knowledge. I assure that I will be careful to avoid such recurrence.

I request once again to pardon me and take lenient view in the above matter. I also request you to treat the suspension period as leave due.."

Yours faithfully,

In this letter the applicant submits that he admits the charges contained in the charge-sheet memorandum and he offered unconditional regrets for the mis-understanding created by the letter dated 15-12-92. He further submits that he may be pardoned in this connection and a lenient view may be taken in the matter. From the above it can be said with certainty that the applicant has admitted his guilt. He voluntarily says that he is admitting the charges. When he is admitting the charges what purpose will be served if an enquiry is conducted? The very fact that he admitted the charges is sufficient to inflict the punishment on him without following the enquiry procedure as stipulated in the CCS (CCA) Rules

In this connection we would like to bring on record the sub-rule(5) (a) of Rule-14 of the CCS (CCA) Rules. This rule reads as below:-

"On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do so, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15". (Emphasis added).

The Rule is very clear. Whenever the article of charges has been admitted, the disciplinary authority should record its findings on each charge after relying on such evidences as he may think fit. There is only one article in this charge memorandum. The disciplinary authority (R-2) in his punishment order has dealt in regard to the charge and also the reasons which led to his conviction that the charges are proved. In view of the narration of the facts in the final order of the disciplinary authority we are of the opinion that the said rule (5)(a) of Rule 14 has been fully complied with. We are of the opinion that the para-metres laid down in the Principal Bench judgement referred to above has also been fulfilled as the applicant himself unequivocally admitted his guilt. No doubt when the penalties like removal and dismissal are inflicted enquiry may be essential. But compulsory retirement cannot be equated with that of removal or dismissal. Though this is a major penalty this penalty is in a lower footing compared to removal and dismissal. When the applicant had himself admitted his guilty, the respondents are at liberty to inflict the punishment of compulsory retirement. We feel that the

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the conduct of the enquiry under the present circumstances may not be essential and is not considered an obligation as held by the Apex Court in AIR 1961 SC 1070.

8. In view of what is stated above, we are convinced that the challenge to the compulsory retirement is not in order. As the applicant has not challenged the appellate authorities' order, we do not propose to give any direction in this connection.

9. In the result, the OA is dismissed. No costs.


10. The learned counsel for the applicant submits that for the charges mentioned in the chargesheet the punishment of compulsory retirement is disproportionate to the gravity of the charge. However we do not propose to pass any direction in this connection. If the applicant submits a mercy petition to the appropriate authority it may be dealt with in accordance with law


(B.S. JAI PARAMESWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

23/6/97 Dated : The 23rd June 1997.
(Dictated in the Open Court)

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D.R. (J)

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TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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

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

DATED: 23/6/87

ORDER/JUDGEMENT

M.A./R.A/C.A.NO.

in

O.A.NO. 1179/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
27 JUL 1997
हैदराबाद बेंच
HYDERABAD BENCH