

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

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ORIGINAL APPLICATION NO. 2 - of 1994

DATE - OF - ORDER: 6th January, 1997

BETWEEN:

G.REDDAPPA

.. APPLICANT

AND

1. Union of India represented by its
Secretary, Ministry of Communications,
New Delhi 110 001,

2. The Member (Personnel),
Postal Services Board, Dak Bhavan,
Parliament Street,
New Delhi,

2. The Post Master General,
Andhra Pradesh, Souther Region,
Kurnool,

4. The Director of Postal Services,
Southern Region, Andhra Pradesh,
Kurnool, Andhra Pradesh,

5. The Superintendent of Post Offices,
Tirupathi Division, Tirupathi,
Andhra Pradesh.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI K.ANANTHA RAO

COUNSEL FOR THE RESPONDENTS: Sri N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, ADMINISTRATIVE MEMBER

HON'BLE SHRI B.S.JAI PARAMESHWAR, JUDICIAL MEMBER

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR,
MEMBER (JUDL.))

None appeared for the applicant. Heard Shri Satyanarayana for Shri N.R.Devaraj, learned senior standing counsel for the respondents.

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2. The case of the applicant is as under:-

While he was working as Sub Postmaster, Bhakarapet in Tirupati Postal Division, he was arrested by Royalpad Police in Karnataka State in Cr.No.16/81. He was in custody for more than 48 hours. Thereupon, the Superintendent of Post Offices, Tirupathi Division, Tirupathi suspended the applicant from service on 6.2.81. This order of suspension was continued till 27.10.84. It is stated that Cr.No.16/81 ended in acquittal in C.C.No.1957/87 on the file of Addl. CJM, Kolar. The date of acquittal is stated to be on 4.5.91.

3. Subsequently, the applicant was implicated in Crime No.7/81 and arrested on 7.2.81 by the Peddatippasamudram P.S. in Chittoor District. Police submitted a charge sheet in C.C.No.315/90 before the IV Addl. Munsif Magistrate, Chittoor. On trial, the applicant was convicted and sentenced to undergo imprisonment for a period of two years. The date of judgement was 10.12.91. It is submitted that the applicant preferred an appeal before the Sessions Court, Chittoor, and in Criminal Appeal No.202/90. On 3.1.92, the Sessions Court confirmed the conviction but reduced the sentence to a period of one year. It is stated that against this order of the Sessions court, he has moved the High Court of A.P. in Cr.R.C.No.25/92 and Criminal ^{Revision} ~~Miscellaneous~~ Petition NO.98/82. The High Court ordered suspension of the

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sentence to one year R.I. and released the applicant on bail with surties, pending disposal of Cr.R.C. That ^{Revision} criminal ~~appeal~~ is still pending.

4. Subsequent to his release on bail by the Hon'ble High Court of A.P. in Cr.R.C.No.25/92, he approached the Superintendent of Post Offices, Tirupathi for reinstatement. Then the Superintendent of Post Offices, Tirupathi Division initiated disciplinary proceedings against the applicant and the applicant failed to participate in the said disciplinary proceedings. Therefore, the disciplinary proceedings concluded *ex parte* and ultimately the applicant was dismissed from service.

5. The applicant in this OA has challenged the action of the respondents in treating the period of suspension between 6.2.81 and 26.10.84 as suspension while dismissing him from service and has prayed for consequential relief of reinstatement into service.

6. The applicant has failed to represent his case. We are deciding this OA on the basis of the material available on record as per Rule 15(1) of the C.A.T.(Procedure) Rules, 1987.

7. Mere pendency of ~~the~~ ^{an} appeal against conviction does not deter the disciplinary authority to initiate the disciplinary proceedings. In the case of "Dy. Director of

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Collegiate Education (Administration), Madras v. S.Nagoor Meera (1995(2) SLJ 89)", the Hon'ble Supreme Court has observed as under:-

"The Tribunal seems to be of the opinion that until the appeal against the conviction is disposed of, action under clause (a) of the second proviso to article 311(2) is not permissible. We see no basis or justification for the said view. The more appropriate course in all such cases is to take action under clause (a) of the second proviso to Article 311(2) once a Govt. servant is convicted of a criminal charge and not to wait for the appeal or revision, as the case may be. If, however, the Govt. servant accused is acquitted on appeal or other proceeding, the order can always be revised and if the Govt. servant is reinstated, he will be entitled to all the benefits to which he would have been entitled to had he continued in service. The other course suggested, viz. to wait till the appeal, revision and other remedies are over, would not be advisable since it would mean continuing in service a person who has been convicted of a serious offence by a criminal court."

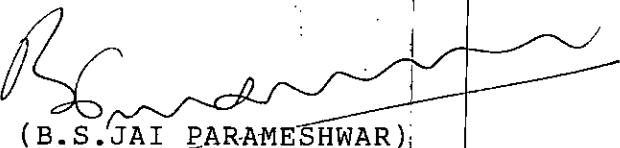
7. In view of the above, we feel that the disciplinary authority was justified in initiating the proceedings without waiting for the outcome of the Criminal Revision Case No.25/92 pending before the Hon'ble High Court of Andhra Pradesh.

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8. There are no merits in this OA. Hence the OA is dismissed. The period of suspension will be decided ~~if the~~ if the applicant succeeds in the criminal case in accordance with law. If the the applicant does not succeed in the criminal case, then, he may file a representation to decide the period of suspension to the competent authority who will decide this issue in accordance with the rules.

9. No order as to costs.

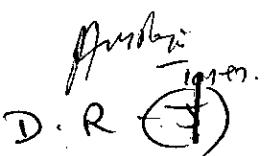

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

6.1.97


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: 6th January, 1997
Dictated in the open court.

vsn


D.R. 

07/11/97

(No)

TYPED BY
COMPARED BY
CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

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

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

DATED:

6-1-97

Order/Judgement
R.P/C.P/M.A.NO.

in
O.A.NO. 2194

~~ADMITTED AND INTERIM DIRECTIONS ISSUED~~
~~ALLOWED~~
~~DISPOSED OF WITH DIRECTIONS~~
~~DISMISSED~~
~~DISMISSED AS WITHDRAWN~~
~~DISMISSED FOR DEFAULT~~
~~ORDERED/REJECTED~~
~~NO ORDER AS TO COSTS.~~

II COURT

YLR

सेन्ट्रल अधिकारिक विधिकरण
Central Administrative Tribunal

प्रेषण/DESPATCH

27 JAN 1997

हैदराबाद व्यायामीठ
HYDERABAD BENCH