

8 (37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1430/94

DATE OF ORDER : 19-8-97.

Between :-

Y.Simhadri

... Applicant

And

1. The Flag Officer Commanding-in-Chief,
Eastern Naval Command, Indian Navy,
Visakhapatnam, AP.
2. Officer-in-Charge,
Base Maintenance Unit, Naval Base,
Eastern Naval Command, Visakhapatnam.

... Respondents

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Counsel for the Applicant : Shri P.Naveen Rao

Counsel for the Respondents : Shri V.Rajeshwar Rao, CGSC

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CORAM:

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

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

(Order per Hon'ble Shri B.S.Jai Parameswar, Member (J)).

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... 2.

- 2 -

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

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Heard Sri Phani Raj for Shri P.Naveen Rao, learned counsel for the applicant and Shri V.Rajeshwar Rao, standing counsel for the respondents.

2. While the applicant was working as unskilled Labourers was served with a charge sheet dt.23-4-92 (Annexure-A to OA). An enquiry was conducted into the charges levelled against the applicant. The applicant did not submitted any explanation to the charge sheet. After conclusion of the enquiry, the disciplinary authority by his proceedings No.CE/9139/2 dt.18-1-94 imposed the penalty of dismissal from service.

3. The applicant has filed this OA challenging the impugned order of dismissal dt.18-1-94 passed by Respondent No.1.

4. A counter has been filed in this OA. In para-16 of the counter the respondents have submitted that the applicant has not preferred any appeal against the order of dismissal and approached this Tribunal without exhausting the departmental remedies available to him under the rules.

5. The applicant submits that one Sri V.Chellaiah, Sepoy caught the applicant while he was passing through the gate. That witness though indicated in the list of witnesses was not called for the interogation. Though ~~he~~ the applicant asked the Enquiry Officer to produce Sri Chellaiah but that was not considered on the pretext that the statement of PW.I, who ^{was} ~~is~~ working along with the applicant ^{was} ~~is~~ sufficient to prove the case (Question 56 of the Enquiry report).

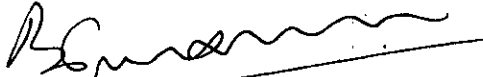
...3.


Thus the applicant submits that principles of natural justice is not followed by not following the procedure ^{during} of the enquiry. The next contention is that enquiry officer on 7-9-92 ^{supposed to} put only 11 questions whereas ^{the applicant} / was asked 23 questions. Hence even the proceedings were not drawn correctly. The above 2 main contentions were made by the applicant among other contentions made in this O.A. We feel it proper to give an opportunity ^{to the applicant} to submit an appeal to the appropriate appellate authority against the order of dismissal dt.18-1-94. If, the applicant is so advised, shall submit ^{the} memorandum of appeal to the appropriate appellate authority within 30 days from the date of receipt of a copy of this order. ~~to the appropriate appellate authority.~~ In case such appeal is received by the appellate authority within the stipulated time, the appellate authority shall ^{according to law} decide the same without going into the question of limitation.

6. Hence we issue following directions :-

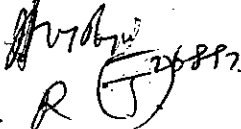
- (a) The applicant if so advised, shall submit a memorandum of appeal to the appropriate appellate authority within 30 days from the date of receipt of a copy of this order;
- (b) In case such an appeal is received within the time stipulated above, the appellate authority shall decide the same on merits without going into the question of limitation within 2 months from the date of receipt of the appeal taking due note of the observations made in ~~this Order~~ as well as the points to be raised in the appeal.

7. O.A. ^{is} ordered accordingly. No order as to costs.


(B.S. JAI PARAMESHWAR)
19.8.97


(R. RANGARAJAN)
Member (A)

Dated: 19th August, 1997.
Dictated in Open Court.


D. R. J.

2/9/97

(2)

TYPED BY
CORR. RED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR:
(M) (3)

Dated: 19.8.97

ORDER/JUDGEMENT

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

in

O.A.NO. 1430/94

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

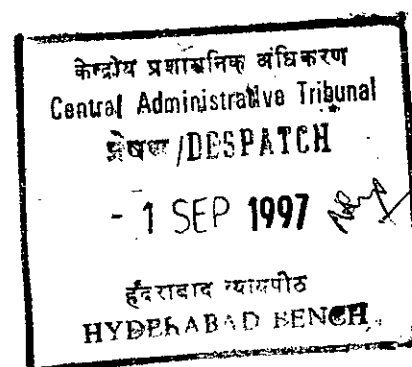
Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court



X Spence