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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.179/94.

Date of decision: 21--4--1997.

Between:

Yerra Appala Naidu. .. Applicant

And

Superintendent of Post Offices,
Vizianagaram Division, Vizianagaram.
Respondents.

Counsel for the applicant: Sri T.Gopala Krishna.

Counsel for the Respondents: Sri N.V.Raghava Reddy.

Coram:

HON'BLE SHRI R.RANGARAJAN, Member (A)

HON'BLE SHRI B.S. JAI PARAMESHWAR, Member (J).

JUDGMENT.

(As per ~~per~~ Hon'ble Shri R. Rangarajan, Member (A))

...

Heard Sri T.Gopala Krishna, for the applicant
and Sri N.V.Raghava Reddy for the respondents.

The applicant while working as EDBPM, Ramabhadra-puram Agrahearam B.O., a/w Gami S.O. was issued with a Notice dated 10-1-1994 for termination of his service with effect from the date of expiry of a period of one month from the date on which that notice was served on him, or on the

Re: (Signature)

: 2 :

This O.A. is filed challenging the above
said notice of termination.

An interim order has been passed in this O.A.,
on 15-2--1994 whereby the impugned order was suspended
until further orders. The applicant is being continued
as EDBPM of that Branch Office in view of the interim
direction given by this Bench.

The counsel for the applicant submits that the
termination Notice issued under Rule 6(a) of P & T Extra
Departmental Agents (Conduct & Service)Rules,1964 is
not tenable. He submits that his services were terminated
impugned notice certain ^{in that} ~~on account of the~~ ^{in that} ~~alleged mis-conduct~~ ^{as} ~~he was~~
reported to be ⁱⁿ ~~under~~ Judicial custody for over 48 hours du
on account of certain allegations levelled against him
when he was running a Fair Price Shop. The learned
xxxx ~~xxxx~~ counsel for the applicant further
submits that in terms of the Post Master General, Madra
Letter No. STC/5-18/80 dated the 29th April, 1983, the
applicant cannot be issued with a termination notice
the instance as it is a case of mis-conduct and his
if required only
can be terminated/under Rule 8 of the E.D.A. (Condu
Service) Rules. As the Notice has been issued und
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Rule 6 of E.D.A. Conduct and Service Rules, it is argued that the said notice has to be set aside. But that ~~may not~~ not preclude the respondents from initiating action against the applicant under the relevant rule viz., Rule 8 of the E.D.A. Conduct and Service Rules.

A reply has been filed by the respondents in this O.A.

Their main contention in this reply is that the applicant while running a Fair Price Shop misappropriated certain provisions in the Fair Price Shop and that was detected by the Police. He was kept under ~~in~~ judicial custody for over 48 hours. The above fact has been corroborated from the records submitted by the Joint Collector. The Joint Collector has also given his finding that certain provisions of the Fair Price Shop were misappropriated and thereby violated Clause 4 of APSE (RDCS) Order, 1973 (Andhra Pradesh Scheduled Commodities (Distribution by Card System). In view of the above of termination, the applicant had been issued Notice under Rule 6 of E.D.A., Service Rules as he had not put in more than 3 years of service upto the date of the notice.

Before we analyse this case, it is necessary to quote verbatim to Instruction No.3 of the Director General at Page 29 of E.D.A. Conduct and Service Rules which reads as under:

(3) Rule 6 not to be invoked for dealing with specific acts of misconduct. --

It has been observed that some of the Divisions are invoking Rule 6 of ED Agents (C & S) Rules to short circuit Rule 8, when specific acts of misconduct committed by an ED Agent who has less than three years' service, come to surface. The practice should be discontinued forthwith.

(P.M.G., Madras letter No.STC/5-18/80 dated 29th April, 1983)

Initiation of regular disciplinary proceedings is necessary, if specific irregularity comes to surface in view of the safeguard afforded to ED Agents under Article 311 of the Constitution.

(D.G.P & T. Letter No.151/2/78-Disc.II dated the 19th April, 1979.) "

extracted above,

As per the above instruction No.3 of the ~~xxx~~ xxxxxxxx,

Rule 6

~~Instructions~~ this can be invoked only in cases other than

the cases of mis-conduct committed by EDBRM and

that too when he has not completed three years of service.

Invoking Rule 6 ~~xxx~~ for mis-conduct is deprecated in the

instructions. In such cases of mis-conduct, the

the Director General has given instructions for initiating regular disciplinary proceedings under relevant E.D.A. Conduct and Service Rules.

Whether the present conduct of the applicant for which a notice of termination was given is a case of mis-conduct or not has to be judged.

The Joint Collector had given his findings that the applicant had violated the provisions of cl.4 of APSE (RDCS) Order 1973 and also given orders for confiscation of the commodities kept with him. Earlier the Vigilance Staff raided his shop and the applicant was arrested and kept under judicial custody.

We are convinced that the applicant's conduct comes under the conduct rules. The applicant, in our opinion, does not show adequate vigilance in maintaining the essential commodities allotted to his F.

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However, we do not want to elaborate on this point.

We leave it open to the Departmental Authorities to decide the case, how far he has violated the conduct rules. In any case, we have come to the conclusion that the present instance comes under mis-conduct and for any mis-conduct, disciplinary action should only be initiated against ~~the applicant~~ under Rule 8 of the rules and termination of his service under Rule 6 of the Rules is not appropriate.

In that view of the matter, it is essential to set aside the impugned order.

In the result the impugned order dated 10-1-1994 is set aside. However, the respondents are ~~not~~ at liberty to proceed against the applicant in accordance with law, if they so desired.

The O.A., is ordered accordingly. No costs.


(B.S.JAI PARAMESHWAR)

21-4-97 MEMBER (J)

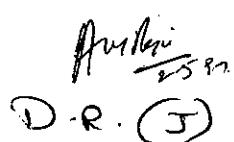

(R.RANGARAJAN)

MEMBER (A)

Date: 21st April, 1997.

Dictated in open Court.

sss.


D.R. (J)

off 5/7/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.RAGURAM M(A)

AND

THE HON'BLE SHRI B.S.JI.PRAMESHWAR:
M(J)

DATED: 21/4/97

ORDER/JUDGEMENT
R.A/C.P/M.A. No.

in

D.A. No. 179/94

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

YLKR

II COURT

