

(39)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 214/94.

Dt. of Decision : 21-9-94.

Mr. M. Lakshmaiah

.. Applicant.

Vs

1. Superintendent of Railway Mail
Service, 'Z' Division, Hyderabad.

2. Director of Postal Services,
Hyderabad Region, Hyderabad.

.. Respondents.

Counsel for the Applicant : Mr. S. Ramakrishna Rao

Counsel for the Respondents : Mr. K. Bhaskar Rao, Addl.CGSC.

OD RAM:

THE HON'BLE SHRI JUSTICE V.NEELADRI RAO : VICE CHAIRMAN

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

..2

JUDGEMENT

I AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN X

Heard Shri S. Ramakrishna Rao, learned counsel for the applicant and also Shri K. Bhaskar Rao, learned standing counsel for the Respondents.

2. The applicant was dismissed from service by order dated 22-8-88. On 31-8-89 the appeal of the applicant was rejected. On the basis of the same incident for which departmental enquiry was held which resulted in his dismissal by order dated 22-8-88, C.C. 114/88 filed on the file of XIII Metropolitan Magistrate for Railways, Secunderabad. The applicant was acquitted by the order dated 16-6-93 in the above C.C. Thereupon, the applicant filed appeal dated 28-6-93 against the order dated 22-8-88 by which the applicant was dismissed from service. The said appeal which was filed on 28-6-93 is said to be not considered. This OA was filed praying for direction to Respondent 2 to consider the said appeal dated 28-6-93 and to dispose the same. The appeal against the order of dismissal dated 22-8-88 was dismissed by order dated 31-8-89. When the said appeal was already disposed of, the applicant has no right to prefer again another appeal against the order dated 22-8-88.

3. Rule 29²⁷ of CCS (CCA) Rules does not confer the power of review on the appellate authority.

Rule 29(A) of CCS CCA rules lays down that the President has the power of review. There is no provision in CCS CCA rules conferring the power of review upon any authority other than the President

X

To

1. The Superintendent of Railway Mail Service,
'Z' Division, Hyderabad.
2. The Director of Postal Services,
Hyderabad Region, Hyderabad.
3. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.K.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT Hyd.
6. One spare copy.

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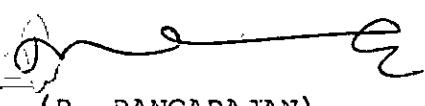
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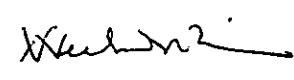
(32)

It is well settled that any authority ~~or court~~
or Tribunal which is ^{not} having any inherent power
~~cannot exercise the power of review unless it~~
is conferred. There is no inherent jurisdiction
in regard to the appellate authority created
under CCS CCA rules. As such, even the appeal
dated 28-6-93 cannot be treated as review petition.

4. The contention for the applicant is
that the appeal should not ^{have been} even be disposed of
when the CC was pending in regard to the same
incident, and as the appeal was disposed of during
the pendency of the CC and as the applicant was
acquitted in the said C.C, the appeal requires
re-consideration. When there is no power of
review in regard to the appellate authority, the
applicant in such case is either to file a revision against the
order dated 31-8-89 in the appeal or to move this
Tribunal under Section 19 of A.T Act by filing
a petition praying for condoning the delay.

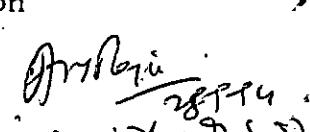
5. Hence this OA is dismissed. But this
order of dismissal does not ~~deprive~~ ^{allow} the applicant
if so advised, to file a proceeding in the
~~his acquitted of the applic~~ appropriate forum in view of the ~~acquittanee/in~~
C.C 114/88 if the incident mentioned in the said
C.C and the relevant departmental enquiry ~~is~~
one and the same. No costs.


(R. RANGARAJAN)
Member (Admn.)


(V. NEELADRI RAO)
Vice-Chairman

Dated the 21st September, 1994
Open court dictation

NS


Deputy Registrar (D)

TYPED BY

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN : M(ADM)

DATED: 21-9-1994

ORDER/JUDGMENT

M.A.No./R.A/C.A.No.

in
O.A.No. 214/94

(T.A.No.

(W.P.NO)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

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