

(37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 217/94.

Dt. of Decision : 21-9-94.

K. Eshwaraiah

.. 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.

CORAM:

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

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

JUDGMENT

I as per Hon'ble Sri R.Rangarajan, Member(Administrative) X

Heard Sri S.Ramakrishna Rao, learned counsel for the applicant and Sri K.Bhaskar Rao, learned Standing Counsel for the respondents.

2. The applicant was dismissed from service by order dated 22.8.1988. On 31.8.1989 the appeal preferred against the above dismissal order was rejected. On the basis of the same incident for which departmental enquiry was held which resulted in his dismissal by order dt. 22.8.1988, C.C.No.114/88 was filed on the file of the XIII Metropolitan Magistrate for Railways, Secunderabad. The applicant was acquitted by the order dt. 16.6.6.1993 in the above C.C. Thereupon, the applicant preferred an appeal dt. 28.6.1993 against the order dt. 22.8.1988 by which the applicant was dismissed from service. The said appeal which was filed on 28.6.1993 is said to be not considered. This OA was filed praying for a direction to R-2 to consider the said appeal dt. 28.6.1993 and to dispose of the same.

3. The appeal against the order of dismissal dt. 22.8.1988 was dismissed by order dt. 31.8.1989. When the said appeal was already disposed of, the applicant has no right to prefer again another appeal against the order dt. 22.8.1988.

4. Rules-27 or 29 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 the CCS(CCA) Rules conferring the power of review upon any authority other than the President.

39

It is well settled that any authority 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 dt. 28.6.1993 cannot be treated as Review Petition.

4. The contention for the applicant is that the appeal should not have been 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 reconsideration). When there is no power of review in regard to the appellate authority, the only remedy that is open to the applicant in such a case is either to file a revision against the order dt. 31.8.1989 in the appeal or to move this Tribunal under sec.19 of the 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 debar the applicant if so advised, to file a proceeding in the appropriate forum in view of his acquittal 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.

M S 9
(R.Rangarajan)
Member (Admn.)

V.Neeladri Rao
(V.Neeladri Rao)
Vice Chairman

Dated 21st Sep., 1994.

Deputy Registrar (J) CC

Grh.

To

1. The Superintendent of Railway Main 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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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(ADN)

DATED: 21-9-1994

ORDER/JUDGMENT

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

O.A.No.

(T.A.No.)

in
217/94

(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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