

56

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO.362/94

DATE OF ORDER : 14-02-1997.

Between :-

B.Narasimha

... Applicant

And

1. Addl. Central Provident Fund  
Commissioner, South Zone,  
Provident Fund Office, Hyd-27.
2. Regional Provident Fund Commissioner-I,  
Provident Fund Office, Barkatpura, Hyd-27.

... Respondents

Counsel for the Applicant : Shri N.Ram Mohan Rao

Counsel for the Respondents : Shri S.Lakshmikanta Rao

-- -- --

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 Parameshwar, Member (J)).

*R*

-- -- --

... 2.

(Order per Hon'ble Shri B.S.JAI PARAMESHWAR, Member (J) ).

-- -- --

None for the applicant. Shri Lakshmi Kantha Rao for the respondents. Shri Krishna Devan submits that Shri N.Ram ~~Robert~~ Rao requested for an adjournment but the point involved is simple in the sense that the factual verification in regard to the filing of appeal has to be verified. The respondents counsel informed that the appeal has not been filed by the applicant so far. In view of it, the direction that is going to be given in this O.A. is not going to be adverse even if the learned counsel for the applicant is not going to be heard.

2. The applicant ~~in this O.A.~~ <sup>has</sup> filed this O.A. ~~to declare~~ to call for the records relating to order No.AP/ADM/Viz/94/75 dt. 24-2-94 and a consequential order No.AP/ADM/VIG/94/81 dt. 28-2-94 passed by the respondent No.1, to quash them or to set aside them as holding them arbitrary, unjust and illegal.

3. The brief facts of the O.A. are as under :-

The applicant submits that he was recruited as Lower Division Clerk in the Employees Provident Fund Organisation. That he joined the organisation on 13-12-96. That he belongs to SC Community. That he was recruited against a vacancy reserved for SC community. That he earned promotion as UDC with effect from 10-5-73 and as head clerk from 12-8-87 proposing to keep his name immediately above one Smt.V.Kamala.

4. It is further stated that while he was functioning as ~~the~~ Head Clerk in the Sub Regional Office, Warangal, he was implicated in a criminal case before the learned Principal Asst.Sessions

*R*

Judge at Warangal. That he was charged for an offence under section 307 of IPC. That in the said prosecution the Sessions Judge convicted the applicant to undergo rigorous imprisonment for 7 years and also with a fine of Rs.1000/-. Against the said judgement he preferred an appeal before the Court of Additional Sessions Judge in Criminal Appeal No.32/92. The Criminal Appeal was allowed on 9.10.92 and the conviction was set aside and that he was alternatively convicted for an offence under section 324 IPC and was released under the provisions of the prosecution.

Accordingly, he executed a bond for keeping good behaviour as per the directions of the Additional Sessions Judge. Even before his appeal was disposed of, the respondent No.1 initiated Disciplinary Proceedings against the applicant on the grounds of his conviction. That he was directed to appear on 22-10-92 in the Disciplinary Proceedings. That he appeared before the Enquiry Officer and brought to his notice the order passed by Principal Asst. Sessions Judge and his release on probation. That the Enquiry Officer concluded the Enquiry inspite of his protests that he was served with a notice to show cause as to why he should not be imposed with a penalty of removal from service. That he submitted a detailed reply dt.17-6-93 and on 24-2-94 the respondent No.1 imposed the penalty of reduction of pay by two stages in the time scale of pay with effect from 1-3-92. During the currency of the penalty, he was not entitled to earn the increments. The said order was followed by another order dt.28-2-94 treating the period of suspension as on suspension and not as on duty. The applicant has challenged these two orders in this O.A.

5. The respondents filed a counter stating that the proceedings dt.24-2-94 have been passed after taking into consideration the circumstances of the case as well as the explanation of the



59

of the applicant and that the respondent No.1 has disclosed the reasons. The findings of the Criminal Court do not show that there is any question of implication of the applicant. As per the judgement dt.9-10-92 the applicant was released on probation on account of his conviction under section 324 of IPC. On that count Departmental Proceedings initiated against him under Rule-15 of the EPS Staff Rules, 1971 that the applicant participated in the proceedings. That the authorities were fully aware of the implications of the interpret with the impugned orders.

6. Since the applicant was convicted under section 324 of IPC and was released on probation, the respondents were right in initiating the Disciplinary Proceedings against the applicant. The order passed by the Disciplinary Authority is an appealable order in terms of Rule-8(2) of Employee's Provident Fund Staff (D&A) Rules. As the contention of the applicant in this OA is that he cannot be taken up with the Disciplinary Proceedings in view of the fact that he was released on probation. He raised other contentions also.

7. He may make a comprehensive appeal indicating all the contentions raised in the Original Application and submit the memorandum of appeal to the appellate authority within a period of

JR

(6)

two months from the date of receipt of a copy of this order. If such an appeal is received within the stipulated time, the appellate authority should consider the same and dispose of the same in accordance with the Law within a period of 3 months from the date of receipt of such an appeal.

6. With these directions, the order is disposed of. The appeal should be considered even though it is not filed within the period stipulated period in the Discipline & Appeal Rules. The Appellate Authority shall consider the appeal presented by the applicant ~~orwards~~ without going into the question of limitation.

7. No order as to costs.

  
(B.S. JAI PARAMESHWAR)  
Member (J)

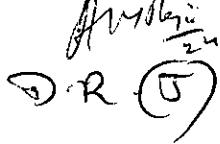
  
(R. RANGARAJAN)  
Member (A)

Yulm)

Dated: 14th February, 1997.

Dictated in Open Court.

av1/

  
DR (T)

..6..

O.A.NO.362/94

**Copy to:**

1. Provident Fund Office, Hyderabad.
2. Regional Provident Fund Commissioner-I,  
Provident Fund Office, Barkatpura, Hyderabad.
3. One copy to Mr. N. Ram Mohan Rao, Advocate, CAT, Hyderabad.  
714, Brindavan Apartments, Red Hills, Hyderabad.
4. One copy to Mr. S. Lakshmi Kantha Rao, Advocate, CAT, Hyderabad.
5. One copy to O.R.(A), CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One duplicate copy.

YLKR

*9/3/97*  
TYPED BY

CHECKED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD

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

AND

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

DATED: 14/2/97

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

in

R.A.NO. 362/97

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--

केन्द्रीय प्रशासनिक अधिकार अधिकार  
Central Administrative Tribunal  
DEEPAK/DEEPATCH

10 MAR 1997 *N.S.*

हैदराबाद न्यायालय  
HYDERABAD BENCH