

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

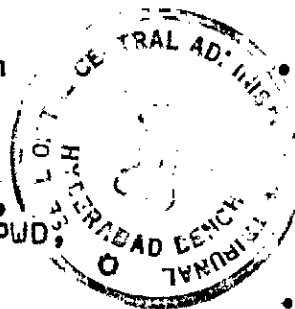
O.A. 363/94

Dt. of Decision : 7.4.1994

Smt. Parvathi Ananthanarayan

Vs

The Superintending Engineer,
Hyderabad Central Circle, CPWD,
Nirman Bhavan, Koti,
Hyderabad.



.. Applicant

.. Respondent

Counsel for the Applicant : Mr. P.B. Vijayakumar

Counsel for the Respondent : Mr. N.R. Devaraj, Sr. CGSC

CORAM:

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

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

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6. The disciplinary proceedings in pursuance of Memo. dated 12-9-78 ^{was disposed of by order dt. 4-12-78} by giving a warning.

----- warning is not referred to as one of the punishments in CCS (CCA) Rules. But it is rightly observed by the Madras Bench in 1991 (16) ATC 627 that even though warning is not one of the punishments envisaged under CCS (CCA) Rules, still when the matter was closed with a warning, it has to be held that the enquiry was closed. The Disciplinary authority has no power of review. Hence the Respondent herein ^{has} ~~have~~ no right to revoke either charge memo. dated 12-9-78 or the order dated 4-12-78 whereby the warning was given to the applicant after enquiry. Hence the Memo. No. 7(4)/94/HCC/E.II/18C dt. 16-3-94 has to be held as illegal.

7. But the first charge is in regard to the absence upto 24-10-82. Hence the said charge is to be limited for the absence from duty from 5-12-78 to 24-10-82.

8. It is evident from the letter dated 26-2-85 from the Directorate General of Works (A6 to the reply) that the Directorate-General intended to peruse the record in pursuance of the charge memo. dated 12-9-78 which culminated in order dated 4-12-78 and also sounded the question of disciplinary action for alleged concealing in the application submitted for obtaining the passport. The order of the Directorate General dated 26-8-85, a copy of which was produced at the time of arguments and a copy of which was given to the learned counsel for the applicant, is to the effect that the disciplinary authority was required to revoke the Memo. dated

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was issued to the applicant without obtaining 'No objection certificate' from the employer (vide Memo. dated 26-2-85 annexed to the reply). By letter dated 26-2-85, the Directorate directed the Superintending Engineer to revoke the order dated 4-12-78 and to issue a fresh charge sheet to the applicant in regard to the absence of the applicant from duty. In 2/85 was observed 3-8-93 by observing that it has become infructuous.

4. The respondents issued memo. No. 7(4)94/HCC/E.II/18/c dated 16-3-94 revoking the proceedings dated 12-9-78 to 4-12-78 without prejudice to further action of issuing a subsequent charge sheet to the applicant appropriate to the nature of charges. Charge memo. dated 16-3-94 was issued with the following charges:-

- (1) The applicant has been absent from duty with effect from 3-7-78 to ~~24-2-88~~ 24-10-82 without any authority and that her wilful absence from 3-7-78 is repetitive.
- (2) The applicant obtained passport dated 10-5-78 from the passport officer, Hyderabad declaring herself in her application as house-wife as profession and concealing the fact of her being the Government servant working in C.P.W.D. as Stenographer.

Being aggrieved, the applicant filed this OA.

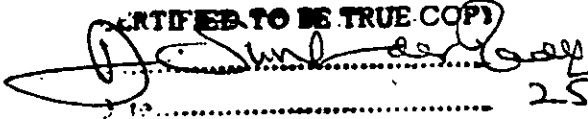
5. Two main contentions for the applicant are:

- (1) That the Respondent who is the disciplinary authority has no power of Review and hence memo. No. 7(4)/94/HCC/E-II/18/c dated 16-3-94 revoking the proceedings dated 12-9-78 to 4-12-78 has to be held as illegal.
- (2) Institution of disciplinary proceedings in regard to the alleged absence from 1978 to 1982 after a lapse of 8 years has to be held as illegal.

12-9-78 and order dated 4-12-78 and to initiate proceedings for the entire absence by the applicant. In the reply affidavit, it is stated that in view of the pendency of the Writ Petition (TA 2/92) till September, 1993, no action was taken.

9. We do not want to express anything in regard to this plea of delay for the learned counsel for the applicant submitted that it may be left open for consideration by the disciplinary authority. Hence we do not want to express our ~~views~~ ^{views} anything in regard to ~~this~~ ^{the same}.

10. In the result, Charge 1 of the charge memo. dated 16-3-94 is modified ^{so as to combine it in} ~~as~~ regard to the absence from duty with effect from 5-12-78 to 24-10-82. The OA is ordered to that extent in regard to the charge memo. dated 16-3-94. The Memorandum dated 16-3-94 is set aside and the OA is ordered accordingly, at the admission stage itself. No costs.

CERTIFIED TO BE TRUE COPY

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Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

25th Dec

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