

(46)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.1082/94.

with MA 1110/96

Between

R.Sanyasi Appadu

Date of order : 19.12.1996.

.. Applicant

And

1. The Flag Officer  
Commanding-in-Chief,  
Eastern Naval Command,  
Naval Base,  
Visakhapatnam-530014.

2. The Chief Staff Officer(P&A),  
Naval Base,  
Visakhapatnam-530014.

3. The General Manager,  
Naval Armament Depot,  
Visakhapatnam-530009.

4. The Area Accounts Officer,  
CDA (Navy),  
Visakhapatnam-530009.

5. The Collector &  
District Magistrate,  
Vizianagaram. .. Respondents

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Counsel for the Applicant .. Shri BSA Satyanarayana with  
Shri P. Bhaskar

Counsel for the Respondents .. Shri V.Rajeswara Rao,  
Addl. CGSC

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C O R A M

Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman

Hon'ble Shri H.Rajendra Prasad : Member (A)

(Per Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman)

Earlier, the O.A. was once listed for final hearing  
but had been adjourned for the reasons noted in the minutes  
dated 10.6.96.

2. Today, the matter has come up before us in connection with  
M.A.No.1110/96 filed by the applicant on 4.12.96 seeking  
interim order. The interim order sought is to stay operation  
of the order No.VAE/111/C/M/RSA dated 20.11.96 issued by the

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3rd respondent. On the face of it this order having been passed subsequent to the filing of the O.A. and is of a substantive nature passed in exercise of powers under Rule 15(1) of the CCS (CCA) Rules, 1965 no cognizance thereof can be taken on the frame of the instant O.A. and since it was being argued by Shri BSA Satyanarayana that the interim order sought is in the nature of a consequential order we have by consent of counsel for both the sides heard the O.A. itself on merits.

3. The cause of action pleaded in the O.A. and the relief sought therein is confined to the memorandum of charges that was issued to the applicant under Rule 14 of the CCS (CCA) Rules, 1965 dated 11.11.88. Although it transpires that the enquiry had proceeded in pursuance of that charge memo and the applicant had also participated therein and further that the Inquiry Officer had also submitted his report dated 4.6.92 <sup>yet</sup> the disciplinary authority had not passed any order. The grounds of challenge to the issuance of the charge memo urged in the O.A. therefore were inter alia that the disciplinary authority had kept the orders pending on the report and that was in violation of instructions under Rule 15 of the CCS (CCA) Rules, 1965 and that the disciplinary authority had been acting in a manner prejudicial to the interest of the applicant. In these circumstances whether this is a fit case in which the charge memo itself can be quashed having regard to the further proceedings would have been required to be seriously examined. However, there has been a subsequent event and in view of the same we do not think it necessary to do so.

4. The disciplinary authority has <sup>new</sup> passed an order in the disciplinary proceedings on 20.11.96 purportedly acting under Rule 14(2) of the CCS (CCA) Rules read with Rule 15(1) and at the instance of HQENC(V). The said order, namely dated 20.11.96 could be independently challenged on permissible grounds. That, however, not being the subject matter of the

✓ O.A. the principal plan of grievance made in the O.A. against the charge memo does not survive. Realising that having regard to the subsequent order it would be a futile exercise to pursue the instant O.A. directed against the issuance of the charge memo without having challenged the subsequent order dated 20.11.96, the learned counsel for the applicant submitted that the applicant may be allowed to withdraw the instant O.A. without prejudice to his right to challenge the subsequent order dated 20.11.96 in accordance with the law leaving it open to him to urge such grounds relating to the illegality in the charge memo if so advised.

5. We are satisfied that no fruitful purpose would be served by proceeding with the instant O.A. in view of the subsequent order which is required to be independently challenged. Moreover, as we find from the subsequent order dated 20.11.96 copy of which is annexed to the M.A., that it needs to be judicially scrutinised to test its legality and correctness that the applicant may be allowed to withdraw this application without prejudice to the grounds urged and leave it <sup>open</sup> to him to challenge the order dated 20.11.96 by filing a fresh O.A.

6. Shri V.Rajeswara Rao, learned Addl. Standing Counsel submitted that while he cannot object to the withdrawal of the O.A. whether to permit or not is for the court to decide and that he will submit to the ~~office~~ orders.

7. In the result, following order is passed:-

(1) M.A.No.1110/96 is allowed to be withdrawn without prejudice to the right of the applicant to file a substantive O.A. to challenge the order dated 20.11.96 annexed to the M.A. and to pray therein for such interim relief as he may be advised.

(2) At the request of the learned counsel for the applicant the instant O.A. is allowed to be withdrawn without prejudice to the right of the applicant to file a fresh O.A. to challenge the subsequent order dated 20.11.96 if so advised.

(3) We grant liberty to the applicant to urge such of the contentions as may be still relevant as urged in the instant O.A. in support of the fresh O.A. that may be filed against the order dated 20.11.96.

8. The O.A. is accordingly disposed of as withdrawn on above terms. No order as to costs.

4.12.1996  
( H.Rajendra Prasad )

Member (A).

K. S. Chandrasekharan  
Vice-Chairman.

Dated: 19.12.1996.  
Dictated in Open Court.

br.

*3-12-96*  
Deputy Registrar (O.C.)

27/1/97

I COURT

TYPED BY

CHECHED BY

COMPARED BY

APPROVED BY

THE HON'BLE ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI  
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD  
MEMBER(ADMN)

Dated: 19-12-1996

~~ORDER~~ JUDGMENT

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

in

O.A.No. 1082/96 with MA 1100/96  
T.A.No. (W.P.)

Admitted and Interim Directions  
Issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

