

78

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 815/94

DATE OF ORDER : 20-03-1998.

Between :-

V.Rajeswar

... Applicant

And

1. Commander Works Engineer,
Mudfort, Sec'bad-500003.
2. The Chief Engineer (MES),
Hyderabad Zone,
Sec'bad-500 003.

... Respondents

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Counsel for the Applicant : Shri V.Venkata Ramana

Counsel for the Respondents : Shri N.R.Devaraj, Sr.CGSC

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri V.Venkata Ramana, counsel for the applicant and Sri N.R.Devaraj, standing counsel for the respondents.

2. The applicant in this O.A. was recruited as a Mazdoor under Respondent No.1. It is stated that for the post of Mazdoor no educational qualifications are required. He was sponsored by the Employment Exchange and on that basis he was interviewed and he was selected to that post, ^{and} he was appointed to that post by office order No.10444/B/815/EIB Dt.23-2-88. Para-2(e) of the appointment order is relevant, which reads as under :-

(e) On reporting to that office you should produce the original certificates in support of your educational and technical qualifications, age and caste etc.,.

It is stated that the applicant produced a school leaving certificate showing his educational qualifications and date of birth. After a lapse of about four years, a charge sheet was issued to him for violation of CCS (Conduct) Rules. As per the charge sheet it is stated that the applicant produced ^a false school transfer certificate at the time of recruitment as proof of age which was verified and ascertained by the school authorities, ^{to be false}. It is also stated in the charge sheet that the applicant managed to secure false certificate and produced the same to the recruiting authorities and secured appointment. On the basis of the charges was conducted and ^{an} enquiry/report is enclosed at page-17 of the OA. Question 4 of the Enquiry Report ~~as~~ reads as follows :-





Q. Are you guilty of the charges framed against you?

A. I am guilty of the charge sheet. I may be kindly excused what so ever I have done.

From the above question and answer it is evident that the applicant has accepted his guilty.

3. Further the applicant was given a copy of the Enquiry Report and after obtaining his explanation the applicant was dismissed from service vide impugned order (page-16 of the OA). Against that dismissal order the applicant filed an appeal to the Chief Engineer by his representation dt. Nil (page-11 to the OA). The Appellate Authority passed the final order confirming the earlier dismissal order by the impugned order No.10548/AF/26/297/E1C dt.8-5-95 (page-9 to the OA).

4. This OA is filed to set aside the impugned punishment order dt.29-8-94 confirmed by Respondent No.2 by his order dt.8-5-95 and for a consequential direction to the respondent to reinstate the applicant with continuity of service along with back wages and other benefits.

5. The main contention of the learned counsel for the applicant is that no educational qualification is required for the post of Mazdoor. More over the applicant was appointed through the Employment Exchange and at that time the school leaving certificate was not insisted upon. Even while he was interviewed no reference was made to the school leaving certificate. But as per para-2(e) of the appointment order extracted above, the applicant was asked to submit a school leaving certificate indicating his age, caste etc.,. At that late stage calling for any school

leaving certificate indicating educational qualifications, date of birth, caste etc., is unwarranted and on the basis of that certificate issuing charge sheet is untenable. Further the applicant was appointed in the year 1988. He was issued with the charge sheet four years later i.e. in the year 1992. Enquiry was conducted in the year 1994 and he was dismissed in the year 1994 and the dismissal order was confirmed by the Appellate Authority in the year 1995. Hence dismissing the applicant after a long time i.e. after seven years is unwarranted, unethical and to some extent it is a misplaced order.

6. We have heard learned counsel for both sides.

7. If it is not necessary for the applicant to submit any educational qualifications, when he was asked to submit by the appointment order in terms of para-2(a) of that order, the applicant could have very well refused to submit any certificate stating that it was not necessary as no educational qualifications was warranted for appointment of Mazdoor. Even if it was required for indicating date of birth, he could have simply stated the date of birth as ascertained from his parents or relatives. If the respondents were not satisfied with the date of birth, it was for the respondents to get him checked through various sources available to them to ascertain his date of birth for recording in the official records. Instead of that, the applicant volunteered and produced a school leaving certificate which was found to be an irregular one. Hence the production of a false certificate has to be treated as a grave mis-conduct.

82

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We do see a point when the applicant submits that he was dismissed after seven years of service. Probably his explanation could have been asked immediately after he joined service. But it may be possible that the respondents would have noticed the mis-conduct of the applicant much ^{after} either on their own or being brought to their notice through some other sources. Hence it cannot be stated that the respondents have delayed the case with some ulterior motive. Probably the respondents have got information late and that propelled them to issue the charge sheet.

9.

In view of what is stated above, we do not see ^{any} relevant points in the contention of the applicant to set aside the charge sheet/impugned orders. However, a very pertinent point made out by the counsel for the applicant has to be noted. It is stated that the applicant is a poor ex-class-IV employee and has already become over aged. Hence to get some appointment else where is not possible due to the dismissal order. By the dismissal order he had lost the chance of getting employment in some other government offices. Further the Appellate Authority himself has quoted in para-4 of the Appellate Order that the applicant was doing excellent work and shown good conduct during the period of service. That itself is sufficient to forgive him for the mis-conduct and awarding a lesser punishment instead of dismissal from service.

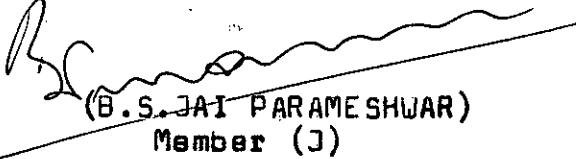
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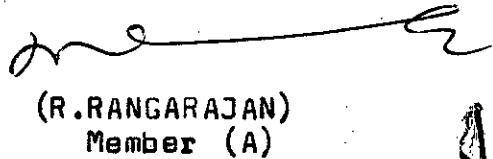
We do see the point in the submission of the counsel for the applicant. We also feel that a poor Class-IV employee without knowing the consequences for an act done by him, should not be asked ^{to} suffer very much. Hence we feel that a lenient view may

may have to be taken. But the Court or Tribunals do not have powers to modify the punishment as observed by the Apex Court. Hence we feel that the case of the applicant has to be referred back to Respondent No.2 to re-consider the punishment awarded to the applicant to see whether a lighter punishment can be awarded which in our opinion may meet the ends of justice.

11. With the above observations we remit back case to Respondent No.2 for reconsideration in regard to the punishment. The Respondents No.2 has to take a decision in regard to the quantum of punishment preferably within a period of three months from the date of receipt of a copy of this order.

12. O.A. is disposed of accordingly. No order as to costs.


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


(R.RANGARAJAN)
Member (A)

Dated: 20th March, 1998.
Dictated in Open Court.

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Copy to:

1. Commander Works Engineer, Mudfort, Secunderabad.
2. The Chief Engineer(MES), Hyderabad Zone, Secunderabad.
3. One copy to Mr.V.Venkateswara Ramana, Advocate, CAT, Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC, CAT, Hyderabad.
5. One copy to D.R(A),CAT, Hyderabad.
6. One duplicate copy.

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II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN 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: 20/3/98

ORDER/JUDGMENT

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

in

O.A.NO. 815/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

