

69

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.928/1995.

Date of decision: 30th March, 1998.

Between:

C.G.V. Baran. ... Applicant.

And

1. The Union of India, represented by its Secretary, Ministry of Defence, New Delhi.
2. Vice-Chief of Army Staff, Thar Sena Mukhvalaya, Army Headquarters, New Delhi.
3. The E.M.C., Engineers-in-Chief Branch, Army Headquarters, Kashmir House, Rajaji Marg, New Delhi.
4. The Command Chief Engineer, Southern Command, Pune.
5. The Garrison Engineers, Engineer Park, Jodhpur (Rajasthan.)

Respondents.

Counsel for the applicant: Sri P.Srinivas.

Counsel for the respondents: Sri V.Rajeswara Rao.

CORAM:

Hon'ble Sri R.Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

JUDGMENT.

(per Hon'ble Sri B.S.Jai Parameshwar, Member (J))

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Heard Sri Giridhar for Srinivas, the learned counsel for the applicant and Sri V.Rajeswara Rao, the learned counsel for the respondents.

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The applicant while working as U.D.C., under the Respondents' Organisation was served with a Memorandum of Charges by Proceedings No. 1000-C/CGV/68/E1C dated 11th Feb. 1989. An enquiry was held into the said Charges. The Enquiry Officer submitted his report dated 28-12-1989 copy of which is Annexure A-6 to the O.A. Copy of the Enquiry Officer's report was furnished to the applicant ^{through} in Letter No. MIL.Tel.764 dated 16-1-1990 by the respondents. The 4th Respondent, who is not the Disciplinary as stated by the applicant, after considering the findings of the Enquiry Officer by his Order No.130806/1/R&D/716 EID E1D dated 26.3.1990 imposed ~~the~~ a penalty of dismissal of the applicant from service. Copy of the order passed by the Disciplinary Authority is not enclosed to the O.A. Against the said Order of dismissal the applicant submitted appeal to the 3rd respondent and the same was returned by the respondents by their Order dated 4.1.1991 on the ground that it was not in the prescribed form. The applicant's statement that he was prevented from filing the appeal within the limitation period. Then he filed the Revision petition/Review on 21-12-1991 to the Respondent of ~~the Disciplinary Authority~~ By Proceedings dated 26-11-1993 (Annexure 10 to the O.A.) Review Petition the Revision Petition was rejected. It was passed by the Lt.General, Vice Chief of the Army Staff.

The applicant has filed this O.A., for setting aside the Order passed by the 4th Respondent dated 28-3-1990 and also the Order passed by the Revisional Authority dated 26.11.1993 and also the Review Order dated 15-7-1994 of the 5th respondent and for a consequential direction to reinstate him into service.

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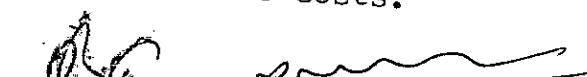
The respondents filed their counter stating ^{that} the applicant had failed to submit ~~any~~ property statement of his and his family members, ~~and~~ had entered into correspondence with the higher authorities and that he remained unauthorisedly absent from duty on his transfer to Jodhpur.

They submit that an opportunity was given to the applicant and an enquiry was conducted adhering to the rules.

During the course of arguments the learned counsel for the applicant submitted that the applicant was not ~~in~~ in a fit condition of mind from 1988 onwards, ^{during} that even ~~in~~ the preliminary enquiry he had given answers without knowing the implication of those answers. Further he was not in a position to substantiate his case in the enquiry due to his mental ill-health. He was not aware how to appeal against the order of dismissal due to mental depression. Considering these points, the respondents have to take a sympathetic view now, so that the applicant will get some benefit instead of ~~the~~ learned counsel for the applicant submits that the gravity of charges framed ^{penalty of} against the applicant do not warrant the ~~dismissal of~~ the applicant. Hence he requests re-consideration of the punishment imposed against him and take a sympathetic view in ^{to} regard to the punishment ~~under~~ the circumstances referred to above.

In view of the above submission of the learned counsel for the applicant, we feel it proper, that the applicant may now submit a detailed representation addressed to the 2nd respondent who has passed the order dated 26.11.1993 (Annexure 10 Page 13 to the O.A.) to reconsider the punishment imposed ^{against} ~~on~~ the applicant in the light of the submissions ~~made by~~ ^{made} of the counsel for the applicant and if such a representation is received within a period of two months from the date of a receipt of a copy of this Order, that the 2nd respondent shall reconsider the issue in view of the fact that the applicant is a poor person. Dismissal may not only cause harm to him but also to his family. The representation submitted by the applicant shall be disposed of within three months from the date of its receipt by the 2nd respondent without going into the question of limitation and technicalities. While re-considering the issue, the Authorities, we hope, may take a sympathetic view on this record.

The O.A., is disposed of with the above observations.
No order as to costs.

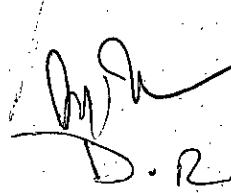

B.S. JAI PARAMESHWAR,
30.3.98 Member (J)


R. RANGARAJAN,
Member (A)

Date: 30-3-1998.

Dictated in open Court.

SSS.


D.R.

DA.928/95

Copy to:-

1. The Secretary, Ministry of Defence, New Delhi.
2. The Vice Chief of Army Staff, Thar Sena Mukhyalaya, Army Headquarters, Kashmir House, Rajaji Marg, New Delhi.
3. The E.M.C., Engineer-in-Chief Branch, Army Headquarters, Kashmir House, Rajaji Marg, New Delhi.
4. The Command Chief Engineer, Southern Command, Pune.
5. The Garrison Engineers, Engineer Park, Jodhpur (Rajasthan).
6. One copy to Mr. P.Srinivas, Advocate, CAT., Hyd.
7. One copy to Mr. V.Rajeswar Rao, Addl.CGSC., CAT., Hyd.
8. One copy to BSJP (J), CAT., Hyd.
9. One copy to D.R.(A), CAT., Hyd.
10. One duplicate.

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15/3/98

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IN THE CENTRAL ADMINISTRITIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. BURANGARAJAN : M(A)

AND

M(J)

DATED: 30/3/98

ORDER/JUDGMENT

M.A./R.A./C.M.N.

in

O.A.NO. 928/98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPENSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

