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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

C.A.1086/95.

Dt. of Decision : 17-06-98.

A. axminarayana

... Respondents.

Vs

1. The Director of Postal Services,
Hyderabad Region, Hyderabad-1.

2. The Supdt. of Post Offices,
Karimnagar Division, Karimnagar.

.. Respondents.

Counsel for the applicant

: Mr.S.Lakshma Reddy

Counsel for the respondents

: Mr.N.V.Raghava Reddy, Addl.CGSC.

CORAM:-

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

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

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ORDER

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.))

Heard Mr.S.Kakshma Reddy, learned counsel for the applicant and Mr.W.Satyanarayana for Mr.N.V.Raghava Reddy, learned counsel for the respondents.

2. During the year 1992 to 1994 the applicant was working as Sub-Post Master, Thotapally. During the said term, the applicant appears to have committed certain financial irregularities and loss to the department to the extent of Rs.27,362.65/- . Hence, a major penalty charge memo was served on the applicant. The applicant admitted the charges levelled against him. However, an enquiry was conducted in-to the charges. On 9-5-94, the enquiry officer submitted his report. A copy of the enquiry report is at Annexure-IV page-15 to 21 of the OA. The disciplinary authority after considering the findings recorded by the enquiry officer and also the explanation offered by the applicant against the report of the enquiry officer agreed with the findings recorded by the enquiry officer and imposed the penalty of reduction of pay of the applicant from 1270/- to 1075/- in the time scale of pay of Rs.975-1660/- for a period of 5 years w.e.f., 20-10-94 with the further direction that the applicant would not earn increment of pay during the period of reduction and that on the expiry of the said period the reduction would have the effect of postponing his future increment of pay.

3. Against the said punishment order, the applicant did not prefer any appeal.

4. The appellate authority is the Director of Postal Services.

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5. The appellate authority after going through the enquiry records in exercise of his power under rule 29 (1)(v) of the CCS (CCA) Rules issued show cause notice to the applicant as to why the punishment imposed by the disciplinary authority should not be enhanced. A copy of the notice dated 30-03-95 is at Page-13 of the OA.

6. The applicant submitted his explanation to the show cause notice. The Director of Postal Services after considering the representation of the applicant, by his proceedings No.ST/21-7/2/95 dt. 19/26-7-95 enhanced the punishment to that of removal from service.

7. The applicant has filed this OA to call for the records of the appellate authority and to set aside the same.

8. The respondents have filed the counter explaining the circumstances under which the appellate authority thought it fit to revise the punishment imposed on the applicant. They submit that the punishment imposed by the disciplinary authority was inadequate having regard to the loss of Rs.27,362-65/- caused to the department.

9. When the appellate authority enhanced the punishment then the appellate authority becomes the disciplinary authority. Hence, the applicant has got an alternative remedy of approaching the appellate authority against the order of the Director of Postal Services who had become the disciplinary authority. Though in the OA it is not stated that the applicant has filed an appeal against the orders of the Director of Postal Services, it is seen from para-6 of the reply that the applicant had, in fact, submitted an appeal dated 16-8-95 and it is also stated that the appeal was rejected by the competent authority on 1-3-96. But the reply does not indicate to whom the appeal was submitted and the designation of the appropriate competent authority. Hence,

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we are not sure whether he has submitted the appeal to the competent authority which was rejected on 1-3-96.

10. In view of the above, it is preferable now for the applicant to file an appeal to the competent appellate authority if he has not already submitted an appeal. If he has already submitted an appeal then he has an opportunity for filing petition to the revising authority. The revision authority may be the CPMG or the Member Incharge of Staff. The applicant is at liberty to file either appeal or revision petition as it is appropriate to the concerned authority.

11. If such an appeal or revision petition is received that appropriate authority shall dispose of the same sympathetically. The reason for our observation to consider the appeal/revision of the applicant "sympathetically" is due to the fact that the applicant submits that he had unblemished service so far and the charges levelled against him for the reasons stated in the charges was the first of its kind and that he had already reimbursed the money which was lost. He also submits that he has a large family to maintain and that the removal from service is a severe punishment.

12. It is not for the Court or Tribunal to give any direction for reducing the punishment. However, the competent authority is at liberty to view the charges sympathetically and pass appropriate order. It is in this back ground we suggest to consider his appeal/revision petition sympathetically.

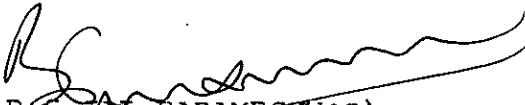
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13. In the result, the following direction is given:-

The applicant if so advised is at liberty to file an appeal/revision petition to the appropriate authority within 3 weeks from the date of receipt of a copy of the judgement. If such an appeal is received within the said stipulated period the same should be disposed of by that authority in accordance with law sympathetically within a period of 4 months from the date of receipt of that appeal without going into the question of limitation, if any.

14. The CA is ordered accordingly. No costs.


(B.S. JAI PARAMESWAR)

MEMBER (JUDL.)

17.6.98



(R. RANGARAJAN)
MEMBER (ADMN.)


D. R. Meen

Dated : The 17th June, 1998.
(Dictated in the OpenCourt)

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OA.1086/95

Copy to:-

1. The director of Postal Services, Hyderabad Region, Hyderabad.
2. The Supdt. of Post Offices, Karimnagar Division, Karimnagar.
3. One copy to Mr. S. Lakshma Reddy, Advocate, CAT., Hyd.
4. One copy to Mr. N.V. Raghava Reddy, Addl. CGSC., CAT., Hyd.
5. One copy to BSOP M(J), CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

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II COURT

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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: 17/6/98

ORDER/JUDGMENT

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

in

O.A.NO. 1086/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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