

86

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1009/95

Date of Order : 9.1.98

BETWEEN :

T.Narasimha Rao

.. Applicants.

AND

1. Commander Works Engineer,
Mud Fort, Secunderabad.

2. The chief Engineer,
Hyderabad Zone, Mudfort,
Secunderabad.

3. The Enquiry Officer,
Mud Fort, Secunderabad.

.. Respondents

— — —
Counsel for the Applicant

.. Mr.T.Lakshminarayana

Counsel for the Respondents

.. Mr.K.Bhaskara Rao

— — —
CORAM:

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

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

— — —
O R D E R

X As per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.) X

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None for the applicant. The applicant was also absent when the OA was taken up for hearing. None appeared for the respondents also.

2. Since the OA is filed during the year 1995 we are not inclined to adjourn this matter. Hence we are deciding the OA on the basis of the material placed on record in accordance with the Rule 15(1) of CAT (Procedure) Rules, 1987.

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3. The applicant herein was appointed as a Carpenter in the scale of Rs. 90-260. It is stated that in the same year one Sri Gopala Krishna was also appointed as a Store Keeper in the same scale of pay of Rs.90-260 which is a non-technical cadre post. The applicant got promotion as Carpenter High-Skilled Grade-II in the scale of Rs.1200-1800 and further he was promoted as Carpenter High Skilled Grade-I in the scale of pay of Rs.1300-2000. It is submitted that while Sri Gopala Krishna was also promoted to Grade-II in the scale of Rs.1320-2000. The applicant as well as Gopala Krishna were of the same age group and they joined during 1963 into service.

4. ^{Sri Gopala Krishna} The applicant submits that he got promotion as Supervisor and he was denied promotion as he had not passed the SSC examination. It is stated that Gopala Krishna filed a complaint against him alleging that he deliberately pulled and dragged him into the gate. With respect to the said complaint an enquiry was conducted. The enquiry officer while considering the charge levelled against the applicant recorded a finding that charge was proved in so far as the applicant holding the hand of Sri Gopala Krishna.

5. In the disciplinary proceedings initiated against him under Rule 14 of the CCS (CCA) Rules, the disciplinary authority imposed the penalty of reduction to a lower grade until he found fit after a period of 7 years from the date of the order and the same was referred to the higher authority.

6. Against the said punishment the applicant submitted a representation dated 22.12.94. The Commander, Works Engineer, by his letter dated 11.1.95 (page-33) stated as follows:-

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"The contents of your application have been gone through. It is confirmed that the Inquiry Report has been studied in detail and the punishment awarded holds good".

7. Against the said punishment, the applicant submitted an appeal to the Chief Engineer, Hyderabad zone. The copy of the appeal is at page-35 to the OA. The Chief Engineer, (R-2) by his proceedings No.10512/518/E1C, dated 18.4.95 (page-39) considered the appeal and reduced the punishment of reduction to the grade of Carpenter for a period of 4 years from the date of his order.

8. The applicant has filed this OA to call for the records and set aside the order dated 18.4.95 passed by the appellate authority and the order dated 19.10.94 passed by the disciplinary authority.

9. The main contentions of the applicant for setting aside the penalty order are as detailed hereinbelow :-

(a) The first contention of the applicant is that the laid down procedures are not fully complied within this case. Thus he was denied opportunity in conducting the enquiry in accordance with the rules.

The applicant was given permission to engage a defence counsel. The applicant was also permitted to cross examine the witnesses. The enquiry report clearly states the various steps/ action taken at the time of inquiry with a view to provide adequate opportunity to the applicant to establish his innocence by cross examining the witnesses and to examine his own witnesses. Hence from the records available we find that the contentions now made have no legs to stand. The enquiry has been conducted in accordance with the rules and no injustice has been done to the applicant while conducting the enquiry.

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(b) The second contention of the applicant is that the enquiry officer had based the decision on no evidence.

When the witnesses were examined and he cross examined them it is not clear how the applicant can state that the case was decided without any evidence. The only point that is relevant to be considered in this case is that the applicant submits that touching the hands of a superior officer is not a case of an attack. We do not subscribe to that view. A subordinate employee should submit his views in a polite and disciplined manner if he wanted to say something. Mere touching the hands has to be treated as a misconduct and it is not known whether he dragged the complainant to the gate.

(c) The third contention of the applicant is that the penalty is not commensurate with the gravity of the charge. We are leaving it to the respondents to decide this issue.

10. If the applicant is aggrieved by the excess penalty awarded to him then he should submit a representation to the appellate authority or his superior officer for consideration of his case for reduction of penalty.

11. In view of what is stated above we find that all the contentions raised by the applicant have to be rejected out right.

12. Hence this OA is dismissed. No costs.


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

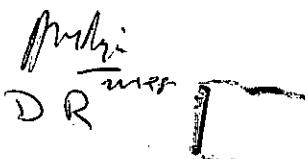
9.1.98


(R. RANGARAJAN)
Member (Admn.)

Dated : 9th January, 1998

(Dictated in Open Court)

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Copy to:

1. Commander Works Engineer, Mud Fort, Secunderabad.
2. The Chief Engineer, Hyderabad Zone, Mudfort, Secunderabad.
3. The Enquiry Officer, Mud Fort, Secunderabad.
4. One copy to Mr.T.Lakshminarayana, Advocate,CAT,Hyderabad.
5. One copy to Mr.K.Bhaskara Rao,Addl.CGSC,CAT,Hyderabad.
6. One copy to HBSJP,M(J),CAT,Hyderabad.
7. One copy to D.R(A),CAT,Hyderabad.
8. One duplicate copy.

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. JAI PARAMESHWAR :
M(J)

DATED: 9/4/98

ORDER/JUDGMENT

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

in

C.A.NO. 1009/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS
DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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