

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD
BENCH: AT HYDERABAD.

OA.No.1458/95.

Date of order 16-2-1996.

Between:-

Ch.Prabhakara Rao ... Applicant.

And

1. Postmaster General,
Vijayawada Region, Vijayawada.
2. Superintendent of Post Offices,
Gudur Division, Gudur.
3. Sub-Postmaster, Venkatagiri Town Post
Office, Nellore District.

... Respondents.

Counsel for the Applicant: Mr.S.Ramakrishna Rao

Counsel for the Respondents: Mr.N.V.Raghava Reddy,

CORAM:-

HON'BLE MR.JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER ADMINISTRATIVE.

OA No.1458/95

JUDGEMENT

X As per the Hon'ble Sri R.Rangarajan, Member (A) X

The applicant is a E.D.Stamp Vendor, Venkata-giri Town Sub-Post Office. He had applied for leave intermittently between 10-3-93 and 30-11-93 to take medical treatment. R-3 ^{had} sent a notice to him on 20-11-93 (Annexure A1) directing him to rejoin duty from leave before 24-11-93 failing which action under Rule 5 of E.D.A. Rules would be taken for availing leave exceeding 180 days in a year. The applicant informed R-3 that the time is short to join on 24-11-93, but he would rejoin ~~the~~ duty on 1-12-93 and accordingly he joined the ~~duty~~. It is stated for the applicant that the applicant's leave from 21-11-93 to 30-11-93 was also sanctioned. But when he ~~went~~ ^{to report for} duty on 1-12-93, R-3 did not admit him for duty, but ~~was~~ placed him under put-off duty from 16-12-93 (as per Annexure at page 15). He was continued in put-off duty. In the meantime, one Sri K.Sunkanna, working in the same post office was appointed in place of the applicant.

2. Further, R-3 issued a Charge Memo.No.EDSV/Vkg, dt.18-3-94 to the applicant u/r 8 of E.D.A. Rules for imposing major penalty ^{leave} for availing/exceeding 180 days in a year.



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3. Aggrieved by the prolonged put-off duty and issue of disciplinary proceedings which also did not make any headway, the applicant represented to R-1 for irregular appointment of Shri Nagaraja and also requested him to take him back on duty and also for cancellation of Charge Memo dated 18-3-94. R-1 reinstated the applicant terminating ~~the~~ put-off duty, but the disciplinary proceedings was not set aside.

4. This O.A. is filed to quash the Charge Memo dt.18-3-94 declaring it as arbitrary, unwarranted, frivolous and in violation of Arts.14 and 16 of the Constitution, duly absolving the applicant of any responsibility for absence from duty, which absence is covered by leave duly sanctioned, in the interest of justice.

5. The applicant in this O.A. was issued a Charge Sheet for contravening of Rule 5 of the E.D.A. (C&S) Rules. This rule reads as under:-

" Rule 5 of EDA (C&S) Rules:

The employees shall be entitled to such leave as may be determined by the Government from time to time:

Provided that -

- a) where an employee fails to resume duty on the expiry of the maximum period of leave admissible and granted to him, or
- b) where such an employee who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit upto which he could have been granted such leave,

/

(32)

he shall, unless the Government, in view of the exceptional circumstances of the case otherwise decides, be removed from service after following the procedure laid down in Rule 8."

Instruction 1(6) of DGP&T under the above Rule 5 is as follows:

"1(6) Leave shall not ordinarily be availed by an ED Agent at frequent intervals. If an ED Agent is found to have taken leave at frequent intervals for a total period of 180 days or more in a period of one year he shall cease to be an ED Agent."

6. Rule 5 of EDA (C&S) Rules and the instructions 1(6) of the DG, P&T letter u/r 5 came up for consideration in O.A.1395/93 which was disposed of on 8-10-95 wherein both of us were parties to that judgement. In that O.A. the applicant therein was removed from service after issue of Charge Sheet u/r 8 of the EDA (C&S) Rules for availing leave for more than 180 days which it was stated in that O.A. is prohibited u/r 5 of EDA (C&S) rules read with Instructions 1(6) of DG, P&T's instructions. In that O.A. it was held by us that "availing 180 days as per the entire sanctioned leave even though it exceeds/rule that could have been sanctioned does not come under either (a) or (b) of Rule 5 of EDA (C&S) Rules." It was/held also in that O.A. by us/that "DG, P&T's instructions 1(6) is held as void as it contravenes the provisions of Rule 5 of EDA(C&S) Rules which is promulgated under Art.309 of the Constitution." In view of the above the removal order in that case was set aside and the applicant therein was asked to be reinstated in service.



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Subj: New Post Office to be opened in Gudur.

Copy to:-

Post Office to ~~ExxPrakasikarX~~ 155.08 to ~~Applicant~~

1. Postmaster General, Vijayawada Region,
and to Postmaster, Vijayawada.

2. Superintendent of Post Offices in the
Gudur Division, Gudur.

3. Sub-Postmaster, Venkatagiri Town and
Post Office, Nellore District.

4. One copy to Mr. S. Rama Krishna Rao, Advocate,
CAT, Hyderabad.

5. One copy to Mr. N. V. Raghava Reddy, CGSC, CAT, Hyd.

6. One copy to Library, CAT, Hyd.

7. One spare copy to the CGSC, CAT, Hyd.

8. One copy to the concerned Postmaster.

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18. One copy to the concerned Postmaster.

19. One copy to the concerned Postmaster.

20. One copy to the concerned Postmaster.

(Signature)
Name: (Signature)

(Signature)
(Signature)

Postmaster

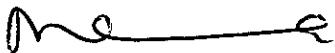
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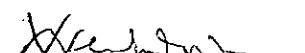
(33)

7. In this case also the applicant had availed leave in excess of 180 days which was sanctioned by the competent authority and the excess leave can be granted by the next higher authority. But without taking recourse to get the leave sanctioned beyond 180 days by the competent authority the applicant was issued with the Charge Memo dt.18-3-94 by R-3 under the impression that he has contravened Rule 5 of the EDA (C&S) Rules as he has availed leave beyond 180 days. As stated earlier that the entire sanctioned leave, even though it exceeds the leave that can be granted under the rules that could have been sanctioned does not come under either (a) or (b) of Rule 5 of EDA (C&S) Rules and DG, P&T's Instructions 1(6) cannot be invoked to issue a charge sheet as these instructions contravene the main provisions of the rule which are formulated under Art.309 of the Constitution.

8. Hence, the Charge Memo issued cannot be sustained. In the result, the Charge Memo No.EDSV/Vkg, dt.18-3-1994 issued to the applicant under Rule 8 of the EDA (C&S) Rules, 1964 is quashed.

9. The O.A. is ordered accordingly at the admission stage itself. No costs./


(R. Rangarajan)
Member (A)


(V. Neeladri Rao)
Vice Chairman

Dated: 16.2.96.


Dy. Registrar (Jud1)

kmv

04-14/198/95

17/2/96

I COURT

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

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

Dated: 16-2-1996

ORDER/JUDGMENT

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

in

O.A.No. 14/198/95

P.A.No. (w.p.No.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions.

Dismissed. At the R of division of staff

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

No Spare Copy

