

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1027/95

DATE OF ORDER : 03-04-1998.

Between :-

B.Danial

... Applicant

And

1. Scientific Adviser to Defence Minister,
Govt. of India, M/o Defence,
Defence Research & Development Organisa-
tion, New Delhi-110011.
2. The Director,
Defence Electronics Research Laboratory,
Chandrayanagutta, Hyd-500 005.

... Respondents

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Counsel for the Applicant : Shri N.Ram Mohan Rao

Counsel for the Respondents : Shri Kota Bhaskar Rao, CGSC

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CORAM:

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

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

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

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... 2.

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

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Heard Sri Siva for Sri N.Ram Mohan Rao, learned counsel for the applicant and Sri Kota Bhaskar Rao, learned standing counsel for the respondents.

2. Between 1973 and 1976 the applicant was working as UDC in DLRL, Hyderabad. During the year 1975-76 the Laboratory Authorities found expenditure towards the reimbursement of medical expenses to the employees was on higher side. The Laboratory authorities suspected some fraud and referred the matter to CBI for enquiry. They suspected that certain employees of the Laboratory submitted bills for reimbursement with false cash memos and Essentiality certificates. The involvement of the applicant was suspected. Hence on 5-7-76 he was served with a memorandum of charges. Subsequently, he was placed under suspension w.e.f. 4-8-76.

3. The applicant challenged the order of suspension before the ^{Hon'ble -} High Court of Andhra Pradesh ^{the High Court} while deciding the Writ Appeals No.499 to 505 of 1979 directed the respondent authorities to conclude the Disciplinary Proceedings within two months from the date of receipt of a copy of the judgement of the High Court of AP. Accordingly, enquiry into the charge memo dt.5-7-76 was concluded and a report was sent by the Enquiry Officer. A copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted a detailed representation on 4-4-79 against the findings of the Inquiry Officer.

4. The Disciplinary Authority after considering the findings

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of the Enquiry Officer and also the explanation offered by the applicant agreed with the findings recorded by the Enquiry Officer and passed the order as under :-

It is, therefore, ordered that the pay of Shri B.DANIEL be reduced by ONE stage from Rs.1230/- to Rs.1200/- in the timescale of Rs.1200-30-1560-EB-40-2040 for a period of FOUR years with effect from 1-6-94. It is further directed that Shri B.DANIEL will not earn increments of pay during the period of reduction and that on expiry of this period the reduction will have the effect of postponing his future increments of pay.

An amount of Rs.4,847.69 drawn under the said false medical bills is recoverable in 36 equal instalments with effect from June, 1994 salary.

Further, the disciplinary authority has declared the period from the of placing Shri B.DANIEL under suspension to the date of revocation of suspension order i.e., from 4-8-1976 to 31-5-94 does not count for seniority or increments and it counts only for pension and terminal benefits."

Against the said order of punishment, the applicant submitted an appeal dt.22-6-94.

5. On 30-12-94 the appellate authority considered the appeal and agreed with the Disciplinary Authority and rejected the appeal.

6. The order of the Disciplinary Authority dt.1-6-94 is at page-15 and 16 of the OA and the order of the appellate authority dt.30-12-94 is at pages 30 to 36 of the OA.

7. The applicant has filed this OA for the following reliefs :-

(a) Call for the relevant and connected records in

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connection with the proceedings No.RD/PERS-10/21538/94(12) DLRL, dt.30-12-94 of the 1st respondent in which proceedings No.DLRL/PERS/BD/1068 dt.1-6-94 of the 2nd respondent merged, and quash the same as illegal, unjust, arbitrary and unconstitutional;

(b)declare that the applicant is entitled to all benefits including increments and consideration of his case for promotion along with his juniors treating the period of suspension as spent on duty;

(c)hold it as arbitrary that portion of the findings which reads as :-

"It is further ordered that the pay of Shri B.Daniel be reduced by ONE stage from Rs.1230/- to Rs.1200/- in the time scale of Rs.1200-30-1560-EB-40-2040 for a period of Four years with effect from 1-6-94. It is further directed that Sri B.Daniel will not earn increments of pay during this period, the reduction will have the effect of postponing the further increments of pay.

Further the disciplinary authority has declared the period from date of placing Sri B.Daniel under suspension to the date of revocation of suspension order i.e., from 4-8-76 to 31-5-95 does not count for Seniority or increments"

(d)pay the applicant consequential benefits which the applicant is eligible by the quashing of the impugned order,

8. The respondents have filed the counter stating that the applicant had submitted 12 medical bills with false essentiality certificates and cash memos and enquiry was conducted and that the punishment imposed by the authorities is proper.

9. The applicant in the OA referred to employees who were similarly involved and who were removed from service and who had challenged removal order in TA 13/91 and Batch.

10. During the course of arguments, the learned counsel for the applicant mainly relied on the observations made in TA 13/91

and stated that certain employees who committed similar misconduct were removed from service, but later re-instated into service and were meted out with minor penalties. When that is the case, the learned counsel submits that the punishment imposed by order dt.1-6-94 is harsh and excessive. We have gone through the observations made in TA 13/91. Infact, against the order passed by this Tribunal, the respondents had taken the matter in SLP Nos.18506 and 18511/95 but the same was dismissed.

11. This Bench in that batch cases felt that imposition of severe penalty was not called for and proceedings initiated against certain officials were vindictive ones. Therefore the Tribunal itself felt that the removal from service was harsh punishment and referred the matter back to the appellate authority for reconsidering the quantum of punishment.

12. Having considered the observations made by the Tribunal in TA 13/91 which was confirmed by the Hon'ble Supreme Court of India, we feel that the punishment imposed on the applicant by order dt. 1-6-94 appears to be harsh and excessive. Hence we direct the appellate authority to have a second look into the case of the applicant and impose a suitable punishment.

13. The Appellate Authority may take into consideration the observations made by this Tribunal in TA 13/91 & Batch. The appellate authority shall reconsider the same and pass a suitable order within four months from the date of receipt of a copy of this order.

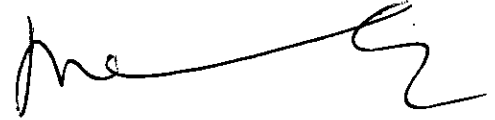
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14. With the above observations O.A. is disposed of. No order as to costs.



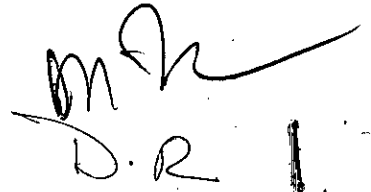
(B.S. JAI PARAMESHWAR)
Member (J)

3/4/98



(R. RANGARAJAN)
Member (A)

Dated: 3rd April, 1998.
Dictated in Open Court.



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Copy to:

1. Scientific Adviser to Defence Minister, Govt. of India,
M/O Defence, Defence Research & Development Organisation,
New Delhi.
2. The Director, Defence Electronics Research Laboratory,
Chandrayanagutta, Hyderabad.
3. One copy to Mr. N. Rammohan Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr. Kota Bhaskara Rao, Addl. CGSC, CAT, Hyderabad.
5. One copy to HBSJP, M(J), CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

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25/98 (7)

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: 3/4/98

ORDER/JUDGMENT

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

in

O.A.NO.

1027/95

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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