

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.No.1512 OF 1995.

Date of Order:24-4-1998.

Between:

G.Venkaiah.

.. Applicant

a n d

1. Postmaster-General,
Vijayawada Region, Vijayawada.
2. Senior Superintendent of Post Offices,
Nellore Division, Nellore.
3. Sub-Divisional Inspector (Postal),
Nellore East Sub-Division, Nellore.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr. Sanka Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS:: Mr. K. Bhaskara Rao

CORAM:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMN)

AND

THE HON'BLE SRI B.S. JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (PER HON'BLE SRI B.S. JAI PARAMESHWAR, MEMBER (J))

Heard Mr. S. Ramakrishna Rao for the Applicant
and Mr. K. Bhaskara Rao for the Respondents.

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2. The applicant herein while working as EDDA, Brahmadevam Sub-Post Office was served with memorandum of charges under Rule 8 of the EDDA Rules. The misconduct alleged against the applicant reads as under:-

" Article-I:-

Sri G.Venkaiah (Put off) while working as E.D.D.A. Brahmadevam himself absented from duty unauthorisedly from 13-5-92 onwards. He neither obtained prior approval from the appointing authority before absenting himself nor made any substitute arrangement on his own record before leaving the post he hold on. Thus the said Sri G.Venkaiah infringed the provisions of Rule 5/⁽¹⁾and (2) of P & T E.D.Agents (Conduct & Service) Rules, 1964 and, therefore, thereby failed to maintain absolute integrity and devotion to duty and thus violated the provisions of Rule 17 of P & T E.D.Agents (Conduct & Service) Rules, 1964.

Article-II:-

Sri G.Venkaiah, E.D.D.A., Bramadevam (Put off duty) while working in the said post did not return the cash and accountable articles held with him to the Sub Post Master, Brahmadevam during the period of his absence from 13-5-92 onwards. He also did not return the unpaid Money Orders and cash to the SPM from 9-5-92 onwards. Thus he infringed the provisions of Rule 129 of P & T Manual VI Part-III and thereby failed to maintain absolute integrity and violated the provisions of Rule 17 of P & T E.D.Agents (Conduct & Service) Rules."

3. The applicant had not submitted any explanation to the Charge memo. However, on his return from duty, he gave his statement on 16-5-1992.

4. An enquiry was conducted into the charges and the Enquiry Officer by his report dated 31-3-1995 held the charges against the applicant as proved. A copy of the report by the Enquiry Officer was furnished to the applicant. The applicant submitted his explanation on 26-4-1995.
5. After considering the findings recorded by the Enquiry Officer and the explanation offered by the applicant, the Disciplinary Authority viz., R-3 imposed the penalty of removal from service on the applicant. (The copy of the Order passed by the Disciplinary Authority is at Annexure.2, Page.16 to 20 of the O.A.).
6. Against the said Order of punishment, the applicant submitted an Appeal on 12-6-1995. The respondent no.2 by his Proceedings bearing No.F6-2/92-93/Appeal, dated:31-7-1995 rejected the appeal and confirmed the punishment.
7. The applicant has filed this O.A. challenging the Orders dated 29-4-1995 of the Disciplinary Authority and 31-7-1995 of the Appellate Authority.
8. A counter has been filed in this O.A. stating that the enquiry was conducted into the charges and that the authorities considered that the applicant remained unauthorisedly absent and that the applicant failed to hand over the postal articles and cash of Rs.7,195/- and that, therefore, there are no reasons to interfere with the impugned Orders.
9. During the course of argument, the learned Counsel for the applicant submitted ~~that~~ the circumstances under which the applicant was forced to remained absent from duty and it is his

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contention that he was unexpectedly required to take one of his relative to Madras for treatment and that he could not report for duty or seek necessary permission before proceeding to Madras. As regards retention of cash on postal Money Orders, he submits that the Sub Postmaster himself was on certain occasions used to ask him to retain the money and in this connection he makes certain allegations against the Sub Postmaster. He submits that the SPM used to attend office irregularly on certain occasions. He permitted the applicant to retain the cash. Infact, the Enquiry Officer in his report has made an observation that the applicant had taken advantage of lack of supervision by the SPM. To substantiate his allegations against the SPM, the applicant has enclosed (Annexure.6) a copy of the statement given by the SPM during enquiry.

10. After return from Madras he has handed over the cash of postal Money Orders. He submitted that there was no defalcation of funds by the applicant and he further submits that there is a provision in the EDDA Rules for obtaining leave in Emergency. He was on leave from 13-5-1992 to 15-5-1992. Thus he submits that the imputations made against him were actually not called for and that for the misconduct alleged against him, there is sufficient explanation from him. In any event the learned Counsel for the applicant submits that having regard to the gravity of the charges, punishment of removal of the applicant from service was not called for.

11. When there is a provision for an EDA Agent to remain absent in Emergency circumstances and can obtain post-facto sanction subsequently, the authorities might have viewed the

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circumstances under which the applicant was forced to leave the Head Quarters on those dates. Further that the applicant on his return from Madras had handed over the cash and postal articles. They should have viewed with leniently his misconduct as there was no act of defalcation of funds by him.

12. The qualification for EDA is only he should have studied upto VIII class so as to be able to discharge his duties satisfactorily.

13. Having regard to his educational qualification, we are compelled to say that the Disciplinary Authority have taken serious view of the misconduct alleged against him.

14. The applicant is responsible in the sense that he has not produced any leave application submitted by him immediately after his joining on 16-5-1992 for getting post-facto sanction. Further the applicant has not clearly brought out in his statement the name of the relative who was taken to Madras and also the Hospital at which the relative was admitted. The applicant could have easily produced that relative for examination during the enquiry to substantiate his defence or atleast he could have named them so as to enable the Department to call them for enquiry. But it is not understood why the applicant had not taken sufficient precaution to prove his case fully. Further the applicant could have subjected himself for enquiry but he did not do that also.

15. But the above lapses on the part of the applicant may not lead to the view that the applicant had committed a very serious misconduct necessitating his removal from service. We have gone through the Orders of the Disciplinary Authority

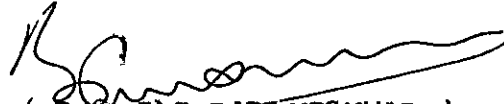
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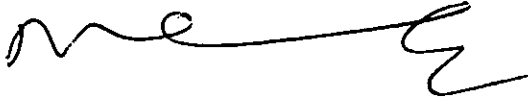
and the Appellate Authority. The reasons given for removal of the applicant from service in their view is not at all fully explained. Probably the above points which were left out could have been highlighted and made out a pukka case for removal from service. But the authorities concerned grouse over the matter probably because of the reasons that they viewed those lapses which are not very serious.


16. Considering the above aspects from both the angles, we are of the opinion that the applicant has been punished very grievously computed to the critical way. We do not think that the absence for two days and remitting back the money without defalcation can lead to awarding of a serious punishment as removal from service. The respondents in our opinion have to consider the issue and decide whether or not the applicant is to be removed from service. We are of the opinion that the applicant may not be meted with the extreme punishment of removal. The penalty which the Authorities feel as justifiable, may be inflicted.

17. In view of what is stated above, we remand the case to the Appellate Authority to re-consider the quantum of punishment in the light of the observations made above and pass suitable orders within a period of two months from the date of receipt of a copy of the Order.

18. The O.A. is disposed of accordingly. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (J)
24/4/98


(R. RANGARAJAN)
MEMBER (A)


DR

Dated: this the 24th day of April, 1998

Dictated in the open court

DSN

DA.1512/95

Copy to:-

1. The Postmaster General, Vijayawada Region, Vijayawada.
2. The Senior Superintendent of Post Offices, Nellore Division, Nellore.
3. The Sub Divisional Inspector (Postal), Nellore East Sub-Division, Nellore.
4. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT., Hyd.
5. One copy to Mr. K. Bhaskara Rao, Addl. CGSC., CAT., Hyd.
6. One copy to BSJP M(J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

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COMPARED BY

II COURT
CHECKED BY
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: 24/4/98

ORDER/JUDGMENT

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

in

O.A.NO. 1512/95

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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| केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal हैदराबाद बेंच HYDERABAD BENCH |
| - 4 MAY 1998 |
| Despatch No. 115/98 |
| RECEIVED |
| विभाग/APPAL SECTION |