

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD  
O.A.NO.295/95

Between :

Date of Order: 4.5.95.

M.Bheemasekhara Rao

...Applicant.

And

1. The Post Master General,  
Vijayawada Region,  
Vijayawada.
2. The Senior Superintendent of  
Post Offices, Guntur Division,  
Guntur.

...Respondents.

Counsel for the Applicant : Mr.K.S.R.Anjaneyulu

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

CORAM:

THE HON'BLE SHRI A.B.GORTHI : MEMBER (A)

contd...

(17)

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O.A. 295/95.

Dt. of Decision : 04-05-95.

ORDER

¶ As per Hon'ble Shri A.B. Gorthi, Member (Admn.) ¶

The applicant was convicted by the IVth Additional Munsif Magistrate, Guntur on 25-08-1993 for ~~offences under~~ Sections 409, 419, 420, 467 and 471 of the IPC and was sentenced to suffer imprisonment for two years and to pay fine of Rs.500/-. Aggrieved by the same the applicant preferred Criminal Appeal No.193/93. By order dated 07-09-1993 the sentence of imprisonment was suspended. The applicant however paid the amount of fine. The respondents vide their order dated 25-08-1993 placed the applicant under deemed suspension in terms of Rule 10 (2)(b) Rules of the CCS(CCA) 1965. Subsequently vide the impugned order dated 01-12-1993 the amount of subsistence allowance was ~~decreased by~~ 50% with immediate effect. The validity of the said order dated 01-12-1993 is under challenge in this OA.

2. Heard learned counsel for both the parties. The aforesaid facts are not in dispute. The only issue agitated by Shri K.S.R.Anjameyulu, learned counsel for the applicant is that the action of the respondents in decreasing the subsistence allowance does not have ~~sanction of law.~~

3. Rule 10(2)(b) reads as under:-

"A Government servant shall be deemed to have been placed under suspension by an order of appointing authority-

(a) ...."

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction".

4. There is no dispute that in the instant case the applicant was placed under 'deemed suspension' purely on account of his conviction followed by the sentence of imprisonment by the criminal court.

5. The respondents in their reply affidavit have brought out that the applicant used all means to delay the proceedings before the criminal court. Further when the department decided to initiate action under Rule-19 of the CCS(CCA) Rules, the applicant, once again, resorted to delaying tactics by refusing to accept the various memos issued by the department in connection with his case.

6. Rule 19 of the CCS(CCA) Rules enables the Government to consider the circumstances of the criminal case in which the Government servant is convicted and to pass such orders thereon as it deems fit based on the conduct which has led to the conviction. If the applicant had refused to accept any of the memos sent by the department in this regard, it was open to the respondents to proceed further and conclude the proceedings under Rule 19 in accordance with law. Even if it is accepted that the applicant by his conduct delayed the finalisation of the proceedings under Rule 19, yet it is not open for the respondents to consider a revision of the subsistence allowance in this particular case. It is because the applicant was placed under 'deemed suspension' on account of his conviction by criminal court and the said suspension would continue till the appeal is finalised. So far as the finalisation of the appeal is concerned, there is nothing on record to indicate that the applicant is in any manner delaying the same.

7. As regard the validity of the action initiated by the respondents in terms of Rule-19 of the CCS CCA Rules, the issue stands settled by the order of this Tribunal in OA.1496/93. In that, the Tribunal held that it was not proper for the respondents to initiate proceedings under the said rule (19) when the appeal against the conviction

is pending. As the proposed action of the respondents to proceed under Rule 19 of the CCS CCA Rules has been declared to be improper by this Tribunal the conduct of the applicant in not accepting the various memos/communications addressed to him in this regard should not be held against him in the matter of deciding on the quantum of subsistence allowance to be paid,

8. In any case, the relevant rule (FR 53(1)(ii)(a) (ii)) makes it very clear that the quantum of subsistence allowance may be reduced if in the opinion of the competent authority the period of suspension has been prolonged for reasons, to be recorded in writing, directly attributable to the government servant. In the impugned order dated 01-12-1993 there is no mention of any reason as to why the competent authority came to the conclusion that the period of suspension was being prolonged by the acts/omissions of the applicant. Even the reasons now disclosed in the counter affidavit do not justify the reduction in the quantum of subsistence allowance because there is nothing on record to indicate that the applicant is in any way delaying the finalisation of the criminal appeal that is now pending before the competent criminal court.

Qe

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9. For the afore-stated reasons I am of the considered view that the impugned order dated 01-12-1993 cannot stand the scrutiny of law. The same is ~~hereby set aside with all~~ consequential benefits. The amount withheld shall be re-paid to the applicant within a period of one month from the date of communication of this order.

10. No order as to costs.

*Anjaneyulu*  
(A.B. Gorthi)  
Member(Admn.)

Dated : The 4th May 1995.  
(Dictated in Open Court)

SPR

*Anjaneyulu*  
DEPUTY REGISTRAR(J)

To

1. The Post Master General,  
Vijayawada Region,  
Vijayawada.
2. The Senior Superintendent of Post Offices,  
Guntur Division, Guntur.
3. One copy to Mr. K.S.R. Anjaneyulu, Advocate, CAT, Hyderabad.
4. One copy to Mr. N.V. Raghava Reddy, Addl. CGSC, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One spare copy.

YLKR

TYPED BY  
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

THE HON'BLE SIRI A.V.HARIDASAN: MEMBER (3)

AND

THE HON'BLE SHRI A.B.GORTHI: MEMBER (1)

DATED 4-5-95

ORDER/JUDGMENT

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

in

D.A.NO. 295/95

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs.

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