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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.458 of 1995

BETWEEN:

K.NAGA SRINIVASA RAO

.. APPLICANT

AND

1. The Deputy Secretary (PVA),
Govt. of India, Ministry of
External Affairs, (CPV Division),
New Delhi,
2. The Passport Officer, Govt. of India,
Ministry of External Affairs,
Passport Office, Hyderabad,
3. Govt. of India represented by its
Secretary for External Affairs,
New Delhi.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.B.VEERABHADRA RAO

COUNSEL FOR THE RESPONDENTS: Mr.N.R.DEVARAJ, Sr.CGSC

CORAM:

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

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

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR,
MEMBER (JUDL.))

Heard Mr.Raja Gopala Reddy for Mr.B.Veerabhadra Rao, learned counsel for the applicant and Mr.N.R.Devaraj, learned standing counsel for the respondents.

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2. The applicant was appointed as Lower Division Clerk in the office of the Respondent No.2 vide proceedings No.V.IV/578/196/93, dated 12.7.93. He was terminated by proceedings F.19(27)AD/93, dated 25.1.93 (Page-7). The termination took effect from 16.1.95.

3. The applicant has filed this OA challenging the order of termination dated 25.1.95 and order of R-1 dated 12.1.95 in this OA.

4. The respondents have filed their counter justifying the termination of the applicant from the service on the ground that he was a probationer and that in accordance with para-2(a) of the offer of appointment of the Ministry of External Affairs dated 12.7.93 his services can be terminated as he had no lien on any post and that therefore no notice was required for termination of his services. However it is seen that earlier on 17.8.94 a memorandum was issued to him wherein certain fraudulent means employed by the applicant while discharging his duties were pointed out and he was asked to submit his explanation. The applicant submitted his explanation by his letter dated 7.9.94 (Page-13). Instead of considering the representation and taking necessary action as per the CCS (CCA) Rules 1965 the impugned order was issued terminating his services.

5. The impugned order cannot be held as a simpliciter in the background of the case. He was terminated because of certain fraudulent means employed by the applicant in

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the pass-port office. Thus it has to be held that the order of termination is with stigma attached. When a stigma is attached, then the ~~order~~ ^{not} can be made either in accordance with the terms and conditions indicated in the appointment order. For termination, if stigma is attached, ~~or in accordance with the rules~~. Rule Q5(1) of the CCS (Temporary) Rules cannot be invoked. Hence the only way left to the respondents in this case is to issue a charge sheet to the applicant in accordance with the CCS (CCA) Rules and after following the procedure laid down in the rules, suitable punishment is awarded on the basis of the disciplinary proceedings.

6. In the present case as the applicant was discharged without following the disciplinary rules in a case where stigma was attached, the impugned order cannot be sustained and has to be necessarily set-aside.

6. Hence the impugned order No.F.19(27)AD/93 dated 25.1.95 of R-1 is set-aside and the respondents are directed to reinstate the applicant. However this will not stand in the way of the respondents to proceed against the applicant in accordance with the CCS (CCA) Rules, 1965.

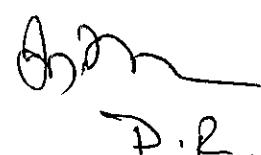
8. The OA is ordered accordingly. No order as to costs.


(B.S.JAT PARAMESHWAR)
MEMBER (JUDL.)

21.11.97


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: 21st November, 1997
Dictated in the open court


D.R.

DA.458/95

Copy to:-

- ~~1.~~ The Deputy Secretary (PVA), Govt. of India, Ministry of External Affairs, (CPV Division), New Delhi.
2. The Passport Officer, Govt. of India, Ministry of External Affairs, Passport Office, Hyderabad.
3. The Secretary for External Affairs, New Delhi.
4. One copy to Mr. B. Veerabhadra Rao, Advocate, CAT., Hyd.
5. One copy to Mr. N.R. Devaraj, Sr. CGSC., CAT., Hyd.
6. One copy to BSJP (J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicated.

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 21/11/97

ORDER/JUDGMENT

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

in
O.A.NO. 458 /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.

YLR

II Court

