

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :  
AT HYDERABAD.

O.A.NO.504-OF 1995.

DATE OF ORDER:- 17-3-1998.

BETWEEN:

V. APPA RAO

.. APPLICANT

A N D

1. The Superintendent of Post Offices,  
Vizianagaram Division,  
Vizianagaram.

2. The Director of Postal Services,  
Northern Region, Visakhapatnam.

.. RESPONDENTS

Counsel for the applicant : Mr. Krishna Devan.

Counsel for the respondents : Mr. K. Bhaskara Rao, CGSC

CORAM :

Honourable Mr. R. Rangarajan, Member (Admn.)

Honourable Mr. B.S. Jai Parameshwar, Member (Judl.)

O R D E R.

(Per Hon. Mr. B.S. Jai Parameshwar, Member(J))

1. I heard Mr. Krishna Devan, the learned counsel for the applicant and Mr. K. Bhaskara Rao, the learned Standing Counsel for the respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 5.4.1995.

3. The facts giving rise to this O.A. may, in brief, be stated thus :-

(a) The applicant was appointed as Extra-Departmental Branch Post Master of Lakidam Branch Post Office account with Gantyada in Vizianagaram Division. He was appointed with effect from 29.3.1988.

(b) On 22.6.1992 he was served with a Memorandum of Charges alleging certain acts of misconduct. The charges levelled against him read as under :-

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A r t i c l e - I.

That the said Sri V.Apparao while working as EDBPM, Lakkidam BO a/w Gantyada SO from 29.3.88 to 21.9.91, shown MO No.3860/28 dated 9.1.91 for Rs.270/- of Kotagandredu SO remitted by the Dist.Treasury Officer, Vizianagaram Division, payable to Challa Sanyasappadu, S/o Ramaswamy of Chandrampeta village, as paid on 16.1.91 and the amount was charged from the BO Account under MO payment on 16.1.91 though the said payee was reported to have died as per the certificate of extract of Register of Deaths of Chandrampeta village in Gantyada Mandalam issued by MRO, Gantyada dated 8.6.90 and thereby alleged to have failed to have followed Rules 10 and 109 of Book of Branch Office Rules and thus failed to maintain absolute integrity and devotion to duty as required of him under Rule - 17 of ED Agents(Conduct & Service)Rules,1964.

A r t i c l e - II

That the said Sri V. Apparao, EDBPM, while working in above said post during the aforesaid period irregularly shown the MO No.6821/155 dated 29.8.91 of Vizianagaram HO for Rs.180/-payable to Smt. Meesala Paiditali, W/o. Kamayya of Lakkidam as paid to Meesala Suramma on 3.9.91 and MO No. 7019/72 dated 6.9.91 for Rs.180/- of Vizianagaram HO payable to Smt.Aketi Satyanarayamma, W/o. Tata of Lakkidam BO as paid to Aketi Satyanarayana and failed to follow Rules 109 and Rule 112 of Book of BO rules and thereby failed to maintain devotion to duty as required under Rule-17 of ED Agents (Conduct and Service )Rules,1964."

(c) A detailed enquiry was conducted into the charges. The Inquiry Officer submitted his report dated nil. The copy of the report of I.O. is at Annexure-1 at pages 11 to 19 of the O.A. The Inquiry Officer recorded the findings holding the charges as proved.

(d) The copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his explanation dated 8.11.1993.

(e) The disciplinary authority i.e. the respondent No.1 after considering the findings recorded by the I.O. and also the explanation of the applicant agreed with the findings of the Inquiry Officer and imposed a punishment of removal of the applicant from service by his proceedings No.F-3/3-2/91-92 dated 14.12.1993. The copy of the order of the disciplinary authority is at Annexure-3 at page 28 of the O.A.

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(f) The applicant submitted an appeal dated 8.1.1994 against the punishment to the appellate authority. The respondent No.2 is the appellate authority. The respondent No.2 considering the appeal by his proceedings No.ST/13-111/VAR dated 16/19.9.1994 confirmed the punishment imposed by the disciplinary authority and rejected the appeal.

4. The applicant has filed this O.A. for the following reliefs :-

- (a) To call for the records relating to the proceedings of Superintendent of Post Offices, Vizianagaram No.F-3/3-2/91-92 dated 14.12.1993 and also No.ST/1e-111/VAR dated 19.9.1994.
- (b) To quash the proceedings of the 1st respondent dated 14.12.1993 and also the 2nd respondent dated 19.9.1994 as illegal, contrary to law and principles of natural justice and therefore, violative of Article 14 of the Constitution of India; and
- (c) To consequently direct the 1st respondent to reinstate the applicant as Branch Postmaster, Lakkidam Post Office with immediate effect.

5. The applicant has challenged the impugned orders on the ground that the first charge related to the payment of Rs.270/- to the payee by name Chella Sanyasappadu, son of Ramaswamy, resident of Chandramapeta. It is the case of the disciplinary authority that the said Chella Sanyasappadu was a recipient of Old-age pension from the Government. The District Treasury Officer, Vizianagaram, remitted a sum of Rs.270/- payable to him vide MO No.3860/28 dated 9.1.1991. It is the case of the applicant that he paid the said sum to the payee on 16.1.1991 in presence of one K.

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one K. Demudu. On the other hand, it is disclosed that the said payee was dead on 27.11.1990. The case of the applicant is that during the preliminary inquiry, the son of the payee admitted the payment by the applicant and that son of the payee was not examined on behalf of the disciplinary authority; that he was not given an opportunity to examine the son of the payee; that the Inquiry Officer conducted the inquiry in violation of the principles of natural justice and that the complainant was not a gentleman; that he had earlier reported to the Postal authorities about the death of certain persons falsely even though they were alive and that therefore the complaint could not have been taken cognizance of.

6. The other charge levelled against the applicant is that he had committed the mistake in writing the incorrect names on the reverse of the paid vouchers. The applicant admits this mistake and says that this mistake is not of such nature to entail him removal from service.

7. Thus the applicant states that the punishment of removal imposed on him is too harsh and that the impugned orders are liable to be set aside.

8. The respondents have filed a counter stating that K. Demudu Talyari of Chandramapeta village was not at all <sup>a</sup> concerned person with the transaction and that any member of the public can bring to the notice of the Postal authorities the irregularities committed in the department; that the respondent No.1 as <sup>the</sup> head of the Division was expected to make necessary enquiries into the correctness of the allegations made against the staff working under him; that the alleged money order was paid on 16.1.1991; that the complaint by K. Demudu Talyari and 13 others of the village filed on 8.2.1991;

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that the said complaint was received on 8.2.1991; that in the said complaint it was stated that the M.O. payable to one Ch.Sanyasappadu who died on 27.11.1990 was stated to have been paid on 16.1.1991 by the applicant; that the M.R.O. Gantiyada confirmed the death of the payee on 27.11.1990; that the death was registered in the Mandal Revenue Office on 28.11.1990; that the applicant during the inquiry did not put forth any convincing evidence to show that the payee was alive and the report of his death by the MRO was false; that the counter allegations of the applicant against Talyari had no substance; that when the payee had died on 27.11.1990 there was nothing to show that the applicant had paid the sum of Rs.270/- to him on 16.1.1991; that the material collected by the Revenue authorities as to the correct date of death of the payee was authenticated and there was no doubt or suspicion to disbelieve the documentary evidence; that the Ext.:.5 is the extract of register of death of Ch.Sanyasappadu; that the evidence of the son of the payee could not have been taken into cognizance as there was every possibility of his being influenced by the applicant to save his skin; that the applicant had not produced anything to disprove the authenticated documents produced by the Revenue authorities as to the death of Ch.Sanyasappadu; that the version of the applicant that the said payee died on 20.1.1991 was not supported by any evidence; that the applicant had not produced anything to show that the payee was alive on 16.1.1991 and that Ext.P.5 the extract of Death register produced by the MRO was a fictitious one; that no credence could have been given to the deposition of the Sarpanch; that the material placed on record by the disciplinary authority amply established the charge of misconduct levelled against the applicant; that the applicant even though sufficient

opportunity was given to him had failed to place any material on record in support of his contention; that though different version regarding the death of the payee was available during the evidence of P.W.2, the Ext.P.5 is the material document which is not at all rebutted by the applicant; that the Inquiry Officer had given sufficient opportunity to the applicant to establish his innocence; that there are no reasons to interfere with the impugned orders and that the O.A. is liable to be dismissed.

9. The first contention of the applicant is that the Inquiry Officer had rejected his request for examining the witnesses on his behalf. In view of the various contentions raised by the applicant, we secured the enquiry records from the respondents. We have perused the same. On going through the records, it is noticed that the disciplinary authority had examined four witnesses in support of the charges and the applicant had examined three witnesses in support of his defence. Nowhere he had submitted an application or made a request to the Inquiry Officer of his intention to examine the son of the payee Sanyasappadu. From the material placed on record, it cannot be said that the Inquiry Officer rejected the prayer of the applicant to examine any witness on his behalf. No material is available in the records to come to the conclusion that the applicant had expressed his intention to examine the son of the deceased Sanyasappadu and that the Inquiry Officer without any justification rejected his request.

10. The gist of the charge No.1 levelled against the applicant is that even though the said Sanyasappadu receipient of the Old-age pension was dead as on 27.11.1990, he claimed to have disbursed the said sum of Rs.270/- the pension amount remitted by the District

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Treasury Officer to the Sanyasappadu on 16.1.1991. That means, the allegation against him is that he has claimed to have disbursed the pension amount to a person who was already dead.

11. The defence of the applicant was that he went to the village and in the presence of one Simhadri Appalanaidu, handed over the amount to Sanyasappadu. Thus he attempts to make out a case that Sanyasappadu was very much alive on 16.1.1991 and that he died on 20.1.1991; that means, a few days after he received his pension. It is his case that the son of Sanyasappadu had remained present at the time when he disbursed the amount to the deceased. Sri Chalumuri Simhadri Appalanaidu who was examined on behalf of the applicant has nowhere stated that at time when the amount was paid, the son of the deceased was present.

12. The disciplinary authority in order to substantiate the allegation that the said Sanyasappadu was dead as on 27.11.1990 had relied upon an extract of the Death Register maintained by the M.R.O. Gantyada. The extract of the Death Register is at Ext.P.5. From the extract, it is clear that Ch. Sanyasappadu son of Ramaswamy died on 27.11.1990 and intimation regarding his death was given by the village official. The learned counsel for the applicant strongly relied upon Section 8 of the Registration of Births and Deaths Act to contend that the persons who are competent to inform the death of any person are enumerated in the said section and that there was no duty or obligation on the part of the village official to report the death of Sanyasappadu, for, under Section 8 of the said Act, the village official can report the death only when a dead body was found in a public place; thus contending that the report of the village official is a fictitious one and the disciplinary authority should not have relied

upon the said piece of evidence.

13. The certificate of death is an important document to know whether a particular person is alive or not. It is registered by the authorities while performing the statutory functions under the said Act. If really the village official played a fraud in furnishing the false information as to the death of Sanyasappadu to the effect that he died on 27.11.1990 and in fact Sanyasappadu was very much alive till 20.1.1991, then the legal heirs of the deceased Sanyasappadu would not have kept quiet till today. It was a serious matter for a village official to report a false information to the authorities. Moreover, it is defamatory to say that a person is dead even though he is very much alive. When that was so, neither Sanyasappadu nor his sons have so far chosen to dispute the entry made in the Death Register of the Mandal Revenue Office.

14. P.W.2 Parvateswara Rao had conducted the preliminary enquiry into the complaint. He has specifically stated that he made inquiries as to post-mortem payment of the money order. He had examined the son of Sanyasappadu. He could not collect the <sup>correct</sup> date of death of Sanyasappadu. Hence he reported the matter to the superior officer to contact the Revenue officials to ascertain the correct date of death of Sanyasappadu. It is at this juncture the Postal authorities entered into correspondence with the M.R.O. and obtained the information as to the actual date of death of Sanyasappadu. As per the information furnished by the revenue authorities, the death of Sanyasappadu took place on 27.11.1990.

15. Merely because during the course of preliminary enquiry proceedings, the son of Sanyasappadu stated that the applicant disbursed the old-age pension in his presence, it cannot be accepted. May be, he said so to



save the skin of the applicant. If really that was so, the question remains to be answered by the son of Sanyasappadu is as to why he remained quiet without taking any action against the village official for falsely reporting the death of Sanyasappadu to the authorities. Till this day it appears that he has not chosen to dispute the entry made in the Death Register maintained in the M.R.O. which clearly shows that Sanyasappadu died on 27.11.1990. Therefore, the alleged statement of the son of Sanyasappadu to the effect that the money order amount was disbursed to the deceased in his presence cannot be accepted. There is no material on record to show that the deceased Sanyasappadu was very much alive on 16.1.1991 and he died on 20.1.1991.

16. Brushing aside for the moment Ext.P.5, we must know whether the death of Sanyasappadu on 16.1.1991 was intimated to the authorities by the son of the deceased or anybody in the village. Chandramapeta is a small village. Every one will come to know about the death or birth of any person in the village. Moreover, it cannot be said that the heirs of the deceased Sanyasappadu were ignorant to inform the death of Sanyasappadu on 20.1.1991. If really they had intimated to the M.R.O. about the death of Sanyasappadu on 20.1.1991, then the applicant would have summoned the Death Register from the MRO to establish that Sanyasappadu was very much alive on 16.1.1991 and that he died on 20.1.1991. <sup>the contention that</sup> Hence Ext.P.5 is a fictitious document cannot be accepted. As already indicated above, the applicant has not taken any pains to disprove the charge levelled against him.

17. It is contended that because the village official had reported the death of Sanyasappadu on 28.11.1990 as per Ext.P.5, the same is not admissible in evidence; thus contending the learned counsel for the applicant, relied upon the provisions of Section 35 of

the Indian Evidence Act. The disciplinary proceedings are neither civil proceedings nor criminal proceedings. Strict rules of evidence are not applicable to the disciplinary proceedings. The applicant had not placed any material to show that Ext.P.5 is not a reliable document. He could have disproved the same either by the heirs of Sanyasappadu or by examining any other official to show that the entry in Ext.P.5 is not true and cannot be accepted. Chalamuri Simhadri <sup>Appala</sup> Naidu who was examined on behalf of the applicant attempted to state that the deceased Sanyasappadu was very much alive on 16.1.1991 and that in his presence the pension amount was paid by the applicant. He has not specifically stated the date of death of Sanyasappadu.

18. Chalamuri Simhadri Appalanaidu is the Sarpanch of the village. He has cited an instance wherein the village official had played a mischief in respect of one lady named Bangaramma who was a receipt of Old-age pension. It is stated that the village official has played the mischief on the ground that the said Bangaramma had failed to pay him Rs.10/- as 'Mamul'. Because of that incident, it cannot be concluded that a false information regarding death of Sanyasappadu was made by him as per Ext.P.5.

19. We are aware of the limitations of this Tribunal. This Tribunal cannot sit in appeal over the findings of the authorities. As already observed, the disciplinary authority as well as the appellate authority have analysed the evidence and have come to the conclusion that the charge levelled against the applicant with regard to the payment of money order amount to the deceased Sanyasappadu has been proved. There is no material on record to show that the deceased

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Sanyasappadu was very much alive on 16.1.1991 and that the amount was paid to him by the applicant. The applicant has not placed any material on record to prove his innocence to the charge. The authorities have considered the evidence of Chalamuri Simhadri Appalanaidu and have analysed and appreciated the same properly. We cannot interfere with the analysis and the appreciation of the evidence by the authorities.

20. The learned counsel for the applicant in support of his contention that the allegation in Item No.(i) of the charges was not established by the disciplinary authority relied upon the decision of the Hon'ble High Court of Andhra Pradesh in the case of N. Subramanyam v. Chairman, Visakhapatnam Port Trust and others, reported in 1998(1) ALT 501. In that case the petitioner was removed from service on the ground that he had produced a false School Leaving Certificate while entering into the service of the Port Trust. The disciplinary authority in that case had not examined the person who had issued the School Leaving Certificate in support of the charges. In that context the Hon'ble High Court felt that the burden of establishing the charge was on the disciplinary authority and without examining the person who issued the transfer certificate recording his qualification at the time of his appointment and solely relying upon the certificate imposing a major penalty of removal was not proper. In that case, the Hon'ble High Court felt that the burden of establishing the charge rested with the disciplinary authority.

21. We have gone through the decision relied upon by the learned counsel for the applicant.

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In the case of Orissa Mining Corporation v. A.C. Prusti, reported in 1997 SLR 286(SC), the Hon'ble Supreme Court of India has observed that in the disciplinary proceedings there is no such thing as burden of proof and it depends upon the nature of the charge levelled against the delinquent employee <sup>and the nature of his explanation</sup>. In this case, the charge levelled against the applicant was that he disbursed the amount of Rs.270/- remitted by the District Treasury to one Sanyasappadu even though the said person was reported dead on 27.11.1990. This is the gist of the charge. When the applicant took the defence that he in fact handed over the said amount to Sanyasappadu as he was very much alive on 16.1.1991, then it is for him to establish the said fact. The disciplinary authority in support of their case that Sanyasappadu was dead as on 27.11.1990 has produced the extract of the Death Register maintained by the M.R.O. Gantyada. Then the applicant relied upon Chalamuri Simhadri Appalanaidu's evidence. The oral evidence cannot be taken in the absence of any documentary evidence and on the face of Ext.P.5, the extract of the Death Register maintained by the MRO office in course of official business. In that view of the matter, we feel that it was for the applicant to place material on record to show that Sanyasappadu was in fact alive on 16.1.1991 and he died on 20.1.1991. The authorities have carefully analysed the evidence of Chalamuri Simhadri Appalanaidu and relying on Ext.P.5 have come to a proper conclusion. It is not for this Tribunal to reappraise such evidence and come to a different conclusion.

22. In this connection, we feel it proper to note that the Hon'ble Supreme Court of India in the case of

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Government of Tamil Nadu v. A. Raja Pandian, reported in AIR 1995 SC 561; Union of India v. Sunder Bahadur, reported in 1972(2) SCR 218; State of Tamil Nadu v. Subramanyam, reported in AIR 1996 SC 1232 and in the case of B.C. Chaturvedi v. Union of India, reported in AIR 1996 SC 484, has clearly stated that it is not for the Court or Tribunal to re-appreciate the evidence and come to a different finding.

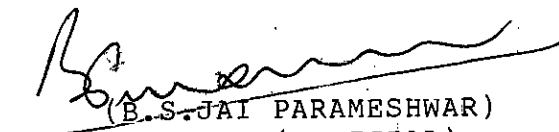
23. As regards the Charge No.(ii), the applicant admitted to have entered wrong names on the reverse of the paid vouchers. Even though this charge is trivial in nature, the authorities have taken into consideration the cumulative effect of this misconduct incorporated in the two charges. We cannot interfere with the findings arrived at by the authorities.

24. Lastly, the learned counsel for the applicant contended that the punishment of removal from service is too harsh and severe. The Hon'ble Supreme Court in the case of Union of India v. Paramananda, reported in 1989 SCC (L&S) 303 has clearly laid down that it is not for the Court or Tribunal to consider the adequacy or otherwise of the punishment imposed by the authorities. Having regard to the gravity of the charge levelled against the applicant, we feel that the punishment is proper and does not call for interference.

25. In view of the above, we find no merits in this O.A. Hence the O.A. is liable to be dismissed.

26. Accordingly, the O.A. is dismissed, leaving the parties to bear their own costs.

The inquiry proceedings produced by the respondents perused and returned to the respondents.

  
(B.S. JAI PARAMESHWAR)  
MEMBER (JUDICIAL)

  
(R. RANGARAJAN)  
MEMBER (ADMINISTRATIVE)

17/3/98  
DATED THE 17TH MARCH, 1998.

OA.504/95

Copy to:-

1. The Superintendent of Post Offices, Vizianagaram Division, Vizianagaram.
2. The Director of Postal Services, Northern Region, Visakhapatnam.
3. One copy to Mr. Krishna Devan, Advocate, CAT., Hyd.
4. One copy to Mr. K.Bhaskara Rao, Addl.CGSC., CAT., Hyd.
5. One copy to Mr. BSJP M(J), CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

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27/3/98  
TYPED BY  
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 17/3/98

ORDER/JUDGMENT

M.A./R.A./G.A. NO.

in

D.A. NO.

504/95

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED -

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण/DESPAT 4 25 MAR 1998 हैदराबाद न्यायपीठ HYDERABAD BENCH	18/3
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