

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : AT HYDERABAD

HYDERABAD BENCH

O.A.No.132/96

Date of Order: 26.3.96

BETWEEN:

K.Rosi

.. Applicant.

A N D

1. Director General (Posts),
Dak Bhavan, Parliament Street,
New Delhi - 1.
2. Postmaster-General,
Kurnool Region, Kurnool.
3. Superintendent, RMS, TP Division,
Tirupathi, Chittoor District.
4. Sub-Record Officer, Gudur RMS,
Gudur, Nellore District.

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.N.V.Raghava Reddy

- - -

CORAM:

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

- - -

(24)

O.A.No.132/96

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J U D G E M E N T

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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The applicant in this OA is ED Mail Man in RMS Gudur and he availed leave in excess of 180 days which was duly sanctioned by R4. When he joined on 31.3.95 he was not allowed to join and he was put off duty from that date. He was issued with a charge sheet on 20.7.95 for availing leave to the extent of 232 days in a year in contravention of Rule-5 (D.G's instructions (I) & (VI)) of P&T., E.D., Agents Conduct and Service Rules 1964. He filed his reply by his representation dated 23.11.95 (page-19).

2. This OA is filed for setting aside the impugned ~~memo No. EDMM dated 20.7.95 issued by R3 and the Memo No. 1097/EDMM dated 31.3.95~~ ^{issued by R3} whereby the applicant was put off duty by declaring the above as arbitrary, illegal, unwarranted, in violation of Articles 14 and 16 of the Constitution and/or a further direction to the respondents to pay back wages from the date of put off duty i.e. 31.3.95.

3. The issue of charge sheet under Rule 5 of EDC&S) Rules and the instructions 1(6) of DG P&T letter under reference 5 came up for consideration in OA.1395/93 which was disposed of on 8.10.95 wherein I was a party to the judgement. In that OA the applicant therein was removed from service after issue of charge sheet u/r 8 of EDA Rules for availing leave for more than 180 days which is stated in that O.A. is prohibited under rule 5 of EDA rules read with instructions 1(6) of DG, P&T's instructions. In that OA it was held by us that "availing the entire leave even though it exceeds 180 days as per rule the

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have been sanctioned does not come under either (a) or (b) of Rule 5 of EDA (C&S) Rules". It was also held by us in that OA that "DG, P&T's instructions 1(6) is held as void as it contravenes the provisions of Rule 5 of EDA (C&S) Rules which is promulgated under Article 309 of the Constitution". In view of the above the removal order in that case was set aside and the applicant therein was asked to be reinstated in service.

4. In this case also the applicant has availed leave in excess of 180 days which was sanctioned by the competent authority and the excess leave can be regularised by the next higher authority. But without taking recourse to get the leave sanctioned beyond 180 days by the competent authority the applicant was issued ^{with} a charge sheet dated 20.7.95 by R3 under the impression that the applicant has contravened Rule 5 of EDA (C&S) Rules as he has availed leave beyond 180 days. As stated earlier that the entire sanctioned leave even though it exceeds ^{the} leave that can be granted under the rules that could have been sanctioned does not ^{come} ~~cover~~ under either (a) or (b) of Rule 5 of EDA (C&S) Rules and DG, P&T's instructions 1(6) cannot be invoked to issue a charge sheet as these instructions contravene the main provisions of the rule which are formulated under Article 309 of the Constitution.

5. Hence the charge memo issued cannot be sustained. In the result the charge memo No.EDMM dated 20.7.95 issued to the applicant under Rule 8 of the EDA (C&S) Rules is quashed. Consequently the order putting him off duty (A-2) is also set aside.



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Copy to:

1. Director General(Posts),
Dak Bhavan,
Parliament Street,
New Delhi - 1.
2. The Postmaster General,
Kurnool Region,
Kurnool.
3. Superintendent, RMS,
TP Division,
Tirupathi,
Chittoor District.
4. Sub Record Office,
Gudur RMS,
Gudur, Nellore District.
5. One copy to Mr.S.Ramakrishna Rao, Advocate,
CAT, Hyderabad.
6. One copy to Mr.M.V.Raghava Reddy, Additional CGSC,
CAT, Hyderabad.
7. One copy to Library, CAT, Hyderabad.
8. One spare copy.

YLKR

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8/10/96

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

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

HON'BLE SHRI R. Rangarajan : M(A)

DATED: 26.3.96.

ORDER/JUDGMENT

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

IN

O.A.NO. 132/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS
DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

* * *

NO
H. G. S. S.
C. S. S.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
15 APR 1996
हैदराबाद न्यायपीठ
HYDERABAD BENCH