

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1416/96

Date of Order : 30.12.98

BETWEEN :

D.Nageswara Rao

.. Applicant.

AND

1. The Assistant Superintendent of Post Offices, Nuzividu Sub-Division, Nuzividu.
2. The Superintendent of Post Offices, Gudivada Division, Gudivada.
3. The Inspector of Post Offices, Kaikalur Sub-Division, Kaikalur. .. Respondents.

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Counsel for the Applicant

.. Mr.Krishna Devan

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

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CORAM :

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

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

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ORDER

X As per Hon'ble Shri B.S.Jai Parameshwar, Member (J) X

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Heard Mr.Krishna Devan, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

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2. The applicant while working as EDDA/MC, Chintapadu a/w Kaikalur, was served with memorandum of charges dated 17.3.94 issued by SDI (P), Kaikalur. The charges framed against the applicant read as below :-

Article-I

Sri D.Nageswara Rao while working as EDDA/MC Chintapadu BO a/w Kaikalur SO showed Kaikalur RL 1058 dated 25.10.93 addressed to Sri Nadella Chandrasekhar, S/o Raghavaiah Pulaparru Village under Chintapadu BO as delivered on 26.10.93 by producing MP-1 receipt bearing a fictitious signature as Nadella Chandrasekhar without actually delivering the said Registered letter to the addressee. It is therefore alleged that Sri D.Nageswara Rao EDDA/MC Chintapadu BO a/w Kaikalur SO infringed the provisions of Rules 138 and 131 of Chapter 3 of Volume VI part-III (Sixth edition) and also failed to maintain absolute integrity and devotion to duty as required under Rule 17 of P&T ED Agents (Conduct and Service) Rules 1964.

Article-II

Sri D.Nageswara Rao while working as EDDA/MC Chintapadu BO a/w Kaikalur SO showed Kaikalur RL 768 dtd. 6.9.1993 sent by LIC Kaikalur addressed to Smt. Manne Seetharavamma W/o Prasada Rao pulaparru, Chintapadu BO a/w Kaikalur as delivered on 7.9.93 by producing RP-1 receipt bearing a LFI of Mungara Seetharavamma attested by the EDDM/MC but actually the said Register letter was delivered to the addressee only on 12.11.1993, it is

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therefore alleged that Sri D.Nageswara Rao EDDA/MC, Chintapadu BO a/w Kaikalur SO by delaying in the delivery of the RD 768 infringed the provisions of Rule 138 and 131 of Chapter 3 of Volume VI part-II (Sixth edition) and also failed to maintain absolute integrity and devotion to duty as required under Rule-17 of P&T ED Agents (Conduct and Service Rules) 1964.

Article-III

Sri D.Nageswara Rao, while working as EDDA/MC kept 26 unregd. letters in his bag without effecting delivery on 22.11.1993. The letters were given to him on various dates prior to 22.11.93. The date in the date stamps of Kaikalur SO on the unregd. letters were erased. All the 26 letters were not impressed with date stamps of Chintapadu BO. All the letters did not contain any remarks of non-delivery noted on them. It is therefore alleged that Sri D.Nageswara Rao, EDDA/MC kept 26 unregd. letters with him without effecting delivery to the addressee as noted in the penchanama dtd. 22.11.93 infringing the provisions of Rule 134 of Chapter 3 of Volume VI Part-II (VI edition) and failed to maintain absolute integrity and devotion to duty, as required under Rule 17 of P&T ED Agents (C&S) Rules 1964.

Article-IV

Sri D.Nageswara Rao while working as EDDA/MC, Chintapadu BO a/w Kaikalur SO had maintained visit book from 16.9.1993 to 11.11.1993 but discontinued to maintain the visit book from

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12.11.1993 to 20.11.1993 intoken of having visited the fixed villages namely Pulaparru, Kakatiyanagar and Kovvada Lanka under Chintapadu BO delivery area. It is therefore alleged that Sri D.Nageswara Rao, EDDA/MC Chintapadu BO by his non maintenance of visit book from 12.11.1993 to 20.11.93 infringed the provisions of Rule 136 of Chapter 3 of Volume VI part-III (Sixth edition) and also failed to maintain devotion to duty as required under Rule - 17 of P&T ED Agents (Conduct and Service) Rules- 1964.

3. The applicant submitted his explanation dated 5.4.94.

4. The charge memo was issued under Rule 8 of the P&T EDAs (Conduct and Service) Rules, 1964 (in short "the rules 1964").

5. The enquiry was conducted into the charges. The enquiry officer submitted his report dated 5.9.94 holding that the charges were proved. A copy of the report of the enquiry officer was furnished to the applicant. The applicant submitted his representation dated 26.10.94 against the findings of the enquiry officer.

6. The disciplinary authority i.e. R-1 by his proceedings dated 31.10.94 accepted the findings recorded by the enquiry officer and imposed the penalty of removal of the applicant from service with immediate effect.

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7. Against the said punishment order, the applicant submitted an appeal dated 19.11.94 (A-2) to the appellate authority that is the R-2. The R-2 by his proceedings dated 30.1.95 (A-1) confirmed the punishment imposed by the disciplinary authority and rejected the appeal.

8. The applicant has filed this OA challenging the order dated 31.10.94 passed by the disciplinary authority and the order dated 30.1.95 passed by R-2 and praying for the following reliefs:-

(i) to call for records relating to the orders passed by the disciplinary authority and appellate authority.

(ii) to set aside the order of the Disciplinary Authority in Memo No. CPT/Rule-8/EDMC/DA/Chintapadu, dated 30.1.95 as the penalty of removal is too high excessive and disproportionate to the charges levelled against the applicant and also for breach of principles of natural justice and the proceedings based upon no evidence, and

(iii) to direct the Respondents to reinstatement into duty by converting the removal into compulsory retirement. In the alternative, to remit back the case to the appellate authority for reconsideration and pass a speaking and reasoned order.

9. The respondents have filed their counter stating that the application for condoning the delay is not supported by valid grounds that the respondent authorities gave

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sufficient opportunity to the applicant during the enquiry, that the applicant was permitted to peruse the documents produced during the enquiry, that the applicant had not submitted any requisition for perusal of any documents, that the applicant had failed to maintain certain registers as required under the departmental instructions and that there are no grounds to interfere with the impugned orders. Thus they pray for dismissal of the application.

10. A rejoinder has been filed by the applicant rebutting the contentions raised in the reply. But we find that the rejoinder is only a repetition of the OA affidavit.

11. When the case was heard today the learned counsel for the applicant submitted that there are some technical points which are not answered by the Appellate Authority while disposing of the appeal. One of the points mentioned in the OA is that the Appellate Authority's order itself is against the rules. We find such a contention is not raised in the appeal copy of which is at Annexure-A2. This point has been raised now. The learned counsel for the applicant also submits that the order of the appellate authority is cryptic and has not followed the instructions contained in Rule 15 of the Rules 1964. Rule 15 of the rules envisages the points to be considered by the appellate authority. This Rule reads as under :-

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The appellate authority shall consider, _____

- (a) whether the procedure prescribed in these rules has been complied with;
- (b) whether the findings are justified; and
- (c) whether the penalty imposed is excessive, adequate or inadequate and pass orders _____
 - (i) setting aside, reducing, confirming or enhancing the penalty;
 - (ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case.

12. We have examined the order of the appellate authority to see whether it fulfills the conditions laid down in Rule 15 of the Rules 1964. But we find that the appellate authority ~~order~~ is cryptic. It only states that appellate authority had perused the appeal memo, the enquiry report and other connected records and that there is no reason to interfere in the punishment of removal given by the adhoc disciplinary authority.

13. The appellate authority must necessarily go through the grounds raised in the appeal and state its views. In the order dated 30.1.95 such consideration is conspicuously absent. Hence the appellate order dated 30.9.95 is not a speaking order and is liable only to be set aside.

14. In para-4 of the appeal at Annexure-2 of the applicant he had submitted that he had put in 20 years of service as the EDDA and had never come to adverse notice except the charge

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of misconduct now framed. From the contentions raised in the appeal it appears that the punishment awarded to the applicant is disproportionate to the gravity of the charges. The appellate authority has not considered this aspect, at all. This aspect is very relevant to be considered in view of Rule 15 of the rules 1964.

15. Though in the reply some grounds have been urged as regards the condonation of the delay, the learned counsel for the respondents submitted that the proposed course of action to direct the appellate authority to consider afresh the appeal dated 19.11.94 is commensurate with the ends of justice. Hence it is not necessary to go into the questions of limitation.

16. For the reasons stated above we issue the following directions:

- (a) The order of the appellate authority dated 30.1.95 is hereby set aside.
- (b) The appeal of the applicant dated 19.11.94 (A-2) shall be reconsidered by the appellate authority and the appellate authority shall pass a detailed speaking order adhering to the Rule 15 of the Rules 1964.
- (c) Before passing the order in the appeal, the appellate authority shall give a personal hearing to the applicant.
- (d) Time for compliance is 2 months from the date of receipt of a copy of this order.

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copy to! —

1) H.B.J.P

2) D.R (A)

3) Spence

18/1/99

II COURT

TYPED BY
COMPARED BY

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 PARAMESWAR :
M(J)

DATED: 30/12/98

ORDER/JUDGMENT

MA/R.A./C.P.No.

in
DA.NO. 1416/98

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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8 copies

