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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

HYDERABAD

O.A.No.1497 OF 1996.

DATE OF DECISION. 28 JUL 99.

BETWEEN:

G.Venkat Reddy.

....Applicant

a n d

1. The Post Master-General,
Hyderabad Region, Hyderabad-500 001.
2. The Superintendent of Post Offices,
Mahabubnagar Division, Mahabubnagar-509 501.

....Respondents

COUNSEL FOR THE APPLICANT :: Mr.V.Jagapathi.

COUNSEL FOR THE RESPONDENTS:: Mr.V.Vinod Kumar

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN
THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

:O R D E R:

(PER HON'BLE SRI H.RAJENDRA PRASAD, MEMBER (A))
28/7/99

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O R D E R

(As per Hon'ble Shri H.Rajendra Prasad, Member (Admn.))

Mr.V.Jagapathi, Learned Counsel for the Applicant and Mr.V.Vinod Kumar, learned Standing Counsel for the Respondents.

2. The applicant was proceeded against on 8.3.1994 under Rule-8 of P&T ED Agents (C&S) Rules, 1964, on allegations of temporary misappropriation of a deposit made for opening of a new S.B.Account. An Inquiry Officer was appointed to enquire into the allegations and, on the conclusion of the Inquiry, a report was submitted in October 1995. A copy of the Inquiry Officer's report was duly supplied to the Applicant in January, 1996, to which a reply/representation was submitted by the Applicant in early February, 1996. On consideration of the enquiry report and the applicant's reply thereto, Respondent No.2 imposed the penalty of Removal from Service on the applicant on 23.2.96. The Applicant thereupon filed O.A.399/96, which was allowed to be withdrawn by the Tribunal with liberty to the Applicant to file an appeal before the competent authority. Such an appeal was duly submitted on 2.5.96 which was disposed of by the appellate authority on 29.11.96 by upholding the punishment.

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3. The Applicant challenges the orders passed by the Disciplinary and Appellate authorities on the following grounds :-

- (1) The enquiry was "stage-managed".
- (2) The main complainant was not examined during the enquiry.
- (3) The Applicant was not given any opportunity to examine witnesses.
- (4) The material document (the private receipt issued by the complainant acknowledging the receipt of Rs.1,200/-) was not taken cognizance of by the Inquiry Officer.
- (5) The Disciplinary as well as Appellate Authority had passed orders imposing the penalty/rejecting the appeal in a "mechanical" manner.
- (6) The Inquiry Officer and the Defence Assistant did not have any experience in conducting domestic enquiries of the kind which were held against the Applicant.
- (7) The applicant's failure to return the money to the depositor was, at best, an irregularity and not an illegality warranting the imposition of the penultimate major punishment of Removal from Service.

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(8) The punishment imposed is grossly disproportionate to the charges levelled against him.

(9) The Appellate Authority has failed to record any findings.

5. It is explained by the Respondents that even though the applicant had accepted a sum of Rs.1,200/- on 4.10.93 from a depositor, he was seen to have returned the amount to the depositor only on 25.10.93 i.e., after a delay of 21 days, while the said depositor, after waiting for 21 days for a new SB Account to be opened as requested by him, had lodged a complaint in this regard to the authorities. The complainant - depositor was duly served with notices regarding the contemplated/ongoing enquiries from time to time, but these were returned with remarks "party out of station". The said complainant could not therefore be examined by the enquiry officer. There was, however, overwhelming evidence, documentary as well as oral, regarding the alleged misconduct which clearly established the allegations against the Applicant. The orders of Removal passed by the Disciplinary Authority were issued after duly supplying a copy of the enquiry officer's report to the applicant, and by taking into consideration the reply thereto submitted by him. The punishment order was a detailed one and by no means cryptic or

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non-speaking. Similarly, the Appellate Authority had also passed a detailed, speaking order.

6. The applicant has cited the following cases in support of his contention :

(1) Bhagat Ram v. State of Himachal Pradesh and others (AIR 1983 SC 454).

(2) Ashok Kumar v. Union of India (1988 (2) SLR 209

7. In the first of two cases cited, their lordships of Hon'ble Supreme Court held that it would be unfair to subject a low-paid Class-IV government servant to face the hazards of a fresh enquiry since only a he was seen to have committed minor infraction of duty viz., failing to exercise necessary supervision with a view to preventing illicit felling of spruce trees. It was therefore felt that the penalty of Removal from Service which was imposed on him was too severe compared to his lapse. The impugned order in the said case was set aside on certain grounds and considerations which are not even remotely applicable to the facts of the present case. The stress in that case was on an altogether fresh enquiry after it was found that the first enquiry suffered from inherent procedural lacunae. Such, of course, is not the case in the present instance. In the second case cited by the applicant, Hon. Apex Court held that the punishment of termination of service imposed on the applicant therein, for a brief unauthorised absence from duty for only 3 days, was grossly disproportionate and

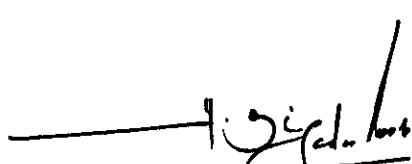
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harsh. The order of termination was therefore set aside. The facts of this case too do not bear any resemblance to the OA under consideration. Neither of the above two cases would seem to come to the help of the Applicant in this case. The charge in the present case is one of breach of trust on the part of the applicant, inasmuch as he, while discharging duties of a public office, betrayed the trust of a member of the public by failing to open a Savings Bank account in the said depositor's name, after having accepted the amount from him. In an office which routinely deals with public monies, a failure of this type reflects a high degree of moral turpitude in an official holding a public office requiring dealings in monetary transactions with the public. We are satisfied too that there was nothing improper, irregular or perverse about the enquiry and the process(es) thereof, and further that the Disciplinary as well as Appellate authorities duly examined all aspects of the case, and a proper consideration was given to the defence submitted by the applicant. Both orders are seen to be reasoned and detailed orders.

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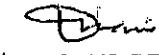
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8. Under the circumstances we find no scope to intercede on the Applicant's behalf. We do not find any merit in the OA and are, therefore, constrained to disallow the same. No costs.



(H.RAJENDRA PRASAD)

Member (Admn.)


(D.H. NASIR)

Vice Chairman

Dated : 28 July, 1999

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1st AND 2nd COURT.

COPY TO -

1. HDHHC
2. HHRP M (A)
3. HGSJP M (J)
4. D.R. (A)
5. SPARE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD
MEMBER (ADMIN)

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMIN)

THE HON'BLE MR. B.S. SAP PARAMESHWAR
MEMBER (JUDL)

ORDER, Date. 28/8/99

ORDER / JUDGMENT

MA./RA./CP.NO

IN

DA.NO. OA 1497/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

PLS ALLOWED.

C.P. CLOSED

R.A. CLOSED.

D.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

23 AUG 1999

हैदराबाद न्यायपाल
HYDERABAD BENCH