

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.146 of 1996

DATE OF ORDER: 23rd SEPTEMBER, 1998

BETWEEN:

T.V.RAMI REDDY

.. APPLICANT

AND

1. The Director of Postal Services,
A.P.Southern Region, Kurnool-5,
2. The Post Master General,
A.P.Southern Region, Kurnool-5,
3. The Director General,
Department of Posts, Dak Sadan,
New Delhi.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.KRISHNA DEVAN

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

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

Heard Sri Krishna Devan
None for the applicant. Heard Mr.N.R.Devaraj,
learned standing counsel for the respondents.

2. The brief facts of this case are as follows:-

The applicant herein was appointed as Postal Assistant on 13.4.70. Later in February 1976 he opted for SPCO Wing in the same Postal division. Hence the applicant was posted as UDC in the SPCO, Allagadda Head Office,

R

D

71

Nandyal Division. While he was working in that post, R-1 issued a charge memo No.ST.IV/2-4/91 dated 6.1.92 (Annexure A-2 at page 52 to the OA). The Articles of charges read as below:-

Article I

Shri T.V.Rami Reddi while functioning as UDC, SBCO, Puttur H.O. during the period from 18.10.82 to 24.5.84 had applied for leave on fictitious medical grounds from 27th May 1984 as revealed by his active participation in the agitational programme at Kurnool H.O. launched by Sri N.S.Murthy, LSG Postal Asstt. in connection with his transfer to Adilabad division and failed to rejoin duty when his leave was refused.

By the above act, the said Shri T.V.Rami Reddy exhibited conduct unbecoming of a Govt. servant thereby violated the provisions of rule 3(1) (iii) of the C.C.S.(Conduct) Rules 1964.

Article II

Shri T.V.Rami Reddy, UDC, SBCO, Puttur H.O. while at Kurnool on 31.5.84 at about 13.10 hrs. entered Kurnool Head Post Office without permission, took part in and interfered with the work of the office by demanding the Postmaster to withdraw "Dies-non" memos. issued to some postmen staff at Kurnool H.O. and thereby contravened the provisions of rule 653 (1) of P&T Man. Vol.II.

Article III

Shri T.V.Rami Reddy, UDC, SBCO, Puttur H.O. entered the Postmster, Kurnool



chambers without permission on 2.6.84 and behaved in a high handed manner most discourteously towards the Postmaster, Kurnool H.O. and thereby contravened the provisions of Rule 3(1) (iii) of the C.C.S. (Conduct) Rules, 1964.

Article IV

Shri T.V.Rami Reddy, UDC, SBCO, Puttur H.O. while at Kurnool on 23.6.84 behaved in a manner unbecoming of a Govt. servant with the Postmaster, Kurnool H.O. along with others and refused to leave the chambers when asked to do so and thus contravened the provisions of Rule 3(1) (iii) of C.C.S.(Conduct) Rules, 1964.

Article V

Shri T.V.Rami Reddy, UDC, SBCO, Puttur H.O. while at Kurnool on 25.6.84 along with others indulged in shouting slogans and completely blocked the entrance of the Kurnool Head Post Office without giving way to public and thereby violated the provisions of rule 3(1) (iii) of the C.C.S.(Conduct) Rules, 1964.

Article VI

Shri T.V.Rami Reddy, UDC, SBCO, Puttur H.O. while at Kurnool indulged in shouting slogans against the officers of the department and publishing pamphlets instigting the members of the staff to raise in revolt against the department styling himself as the convenor of the struggle committee of the postal employees of Kurnool division.

2

D

By the above act, the said Shri T.V.Rami Reddy exhibited conduct unbecoming of a Govt. servant thereby violated the provisions of rule 3(1) (iii) of the C.C.S.(Conduct) Rules, 1964."

The applicant was charged stating that he exhibited the conduct unbecoming of a Govt. servant and thereby violated the provisions of Rule 3(1)(iii) of the CCS (Conduct) Rules, 1964.

3. The applicant denied all the charges and hence an inquiry was ordered.

4. The Inquiry Officer's report is enclosed at Annexure A-I at page 10 to the OA. The Inquiry Officer held that only the articles of charges II and III stand proved. The applicant was informed vide Office Memo No.ST-IV/2-4/91 dated 4.10.91 (Annexure A-I at page 9 to the OA) that he may make any representation, if he desires, against the Inquiry report within 15 days of the receipt of that letter. A copy of the inquiry report was also enclosed with the said letter. The delinquent official vide his letter dated 26.10.91 asked for 15 days more to submit his defence. He was given additional time of 15 days also with effect from 26.10.91. But it is stated that the delinquent official's defence was not received.

5. Authorizing ~~official~~ (R-1 herein) perused the inquiry report and agreed with the same. On that basis, the pay of the applicant was reduced by five stages from Rs.1560/- to Rs.1440/- in the

D

time scale of pay of Rs.1200-2040 for a period of five years with effect from 1.2.92. It is further directed that the applicant will not earn any increments of pay during the period of reduction and that on the expiry of the period of reduction, it will not have the effect of postponing his future increments of pay.

6. Against the order of the disciplinary authority, the applicant filed appeal addressed to R-2. That appeal was disposed of by the order No.Vig/13-1/92, dated 4.11.92 (Annexure A-3 at page 56 to the OA). By that order, the pay of the applicant was reduced by five stages from Rs.1560/- to Rs.1410/- in the time scale of pay of Rs.1200-2040 for a period of 3 years with effect from 1.2.92.

7. The applicant thereafter filed a revision petition under Rule 29(iv) of the CCS (CCA) Rules, 1965 addressed to R-3. This revision petition is dated NIL (Annexure A-4 at page 59 to the OA).

8. The revision petition was disposed of by the Member (O), Postal Services Board by the order No.1/40/93-VP, dated 18.8.93 (Annexure A-5 at page 63 to the OA). By that order, the revisional authority reduced the penalty from reduction in his pay by five stages for a period of five years to reduction in his pay by five stages for a period of two years with further directions disallowing him to draw increments of pay during the period of reduction and reduction not having the effect of postponing the future increments of pay, remaining the same.

A handwritten signature consisting of a stylized 'A' and a horizontal line.

9. This OA is filed to set-aside the impugned orders dated 6.1.92 and 18.8.93 as arbitrary and illegal and violative of Article 14 of the Constitution and for consequential direction to R-I to restore the original pay scale due as on the date of order and to refund the amount of pay that was reduced in accordance with the impugned order dated 6.1.92.

10. Various contentions raised by the applicant for setting aside the punishment orders are discussed below:-

(i) The applicant pleads as a first contention that the disciplinary authority namely, the Director of Postal Services, A.P.Southern Region, Kurnool (R-1 herein) had indulged in nepotism and corruption activities and as the union of the division mounted its pressure for his replacement, R-I in order to thwart the efforts of the union, and to wreak vengeance, devised a plot and issued the charge sheet against him framing six charges and then the DPS ^{managed} the witnesses and got himself appointed as disciplinary authority for this case against him.

It is stated by R-3 in his orders dated 18.8.93 (Annexure A-5 at page 63 to the OA) that the allegations made by the applicant are baseless and wild. The plain fact is that the disciplinary proceedings were initiated as there existed a *prima facie* case against the applicant and have been finalised by the disciplinary authority on merit. It is further stated that the DPS in this case did not get ^{himself} appointed as disciplinary authority and he was the competent disciplinary authority by virtue of the post he

1

held. The appellate authority also held the same view. Hence both the authorities observed in their orders that this point raised by the applicant deserves to be rejected as totally baseless.

The applicant had not stated anywhere, as to the correct appropriate disciplinary authority to issue him ~~the~~ charge sheet. He merely contends that R-1 is not ~~the~~ disciplinary authority. If so, he can state who is the appropriate disciplinary authority and why he submits that R-1 is not ~~the~~ competent disciplinary authority. The reply also states that R-1 is proper disciplinary authority. No rejoinder has been filed to the reply. Hence it has to be held that the proper disciplinary authority had issued the charge sheet and on that basis proceedings were conducted as stated by appellate and revision authorities. Hence the allegation that R-1 is not disciplinary authority cannot be sustained.

Further the applicant had alleged some corruption and nepotism charges against R-1 and submitted that to thwart the union activities, R-1 resorted to punish the applicant as he is an active union worker.

This allegation can be sustained only on the basis of the materials to be produced by the applicant. The applicant had not produced any material to show that corruption and nepotism was encouraged by R-1. Further, when a serious corruption charges are levelled against a very senior official namely R-1, the same cannot be frivolously argued without impleading the said official by



name. Hence these allegations are rejected.

(ii) The second contention of the applicant is that the Inquiry Officer cleared him of four charges and held that the Articles II and III of the charges are only proved. Hence he contends that when four articles of charges were written off, Articles II and III of the charges cannot stand alone as all the charges should be correlated with each other and that the charges II and III were not independent charges.

It is stated in the reply to the review petition that a perusal of the memo of charges makes it abundantly clear that all the six charges are self supported and independent charges and that they are not inter-related as contended by the applicant in his review petition. It is further added that the charges under Articles II and III held as proved against him are undoubtedly two independent charges unrelated in any way to the other charges. Similar is the view taken by the appellate authority also.

The Article II of the charges states that the applicant entered into the chambers of the Post Master, Kurnool HO without permission and demanded him to withdraw dies-non memos issued to some Postmen staff at Kurnool. The third article of charges also is against his entry into chambers of the Post Master, Kurnool without permission and behaving in high handed manner most discourteously towards the Post Master, Kurnool H.O.

A perusal of the above two charges which were held to be proved by the Inquiry Officer clearly indicates that

DR

the applicant acted in discourteous manner and entered the room without obtaining proper permission. The other four charges, namely, charges under Articles I, IV, V and VI are in regard to the application of medical leave on frivolous grounds, shouting slogans and blocking entrance etc. We find that there is force in the submission of the respondents when they say that the articles of charges II and III are not dependent on each other and that those articles are found to be proved. We also find from the Inquiry report which is a voluminous one that reasons to state that articles of charges II and III as having proved have been elaborately explained in the report. Hence we have no hesitation to state that this contention of the applicant is his own imagination and is not proved by material available on record.

The finding in regard to the Article II of the charges is at page 50 to the OA. The Inquiry Officer had passed his findings on the deposition of SDI(P), Kurnool East Sub Division, OS.II office of the Superintendent of Post Offices, Kurnool, SDI(P) Yemmiganur and Shri K.Parthasarathy, IPO(C) who were stated to be present in the Post Master's chamber on 31.5.84. On that basis, the Article II of the charges was stated to be substantiated and proved against the applicant. Similarly, for the Article III of the charges, the Inquiry Officer had stated that the statement of the defence witness who questioned for that charge lacks credibility and, therefore, he opined that the applicant had contravened the provisions of Rule 3(1)(iii) of the CCS (Conduct) Rules, 1964. Hence it has to be held that the charges are proved on the basis of the ~~acceptable~~ evidences but not on vague grounds.

D

79

(iii) The third contention of the applicant is that the Inquiry Officer ~~is~~^{was} biased against him and because of that he had rejected the evidence of defence witnesses.

If such a opinion is formed by the applicant, then he should have submitted a letter to change the Inquiry Officer. But it appears that no such request was made. Further, a perusal of the Inquiry report indicates that the Inquiry Officer had gone through the full gamut of the proceedings, statement of witnesses and other material in connection with the case and had come to a decisive conclusion. If the Inquiry Officer ~~is~~^{was} biased against him, he could have easily concluded that all the charges ~~were~~^{were} proved. But the Inquiry Officer had rejected some articles of charges, namely, Articles I, IV, V and VI and held only the Articles II and III of the charges were proved. That itself shows that the Inquiry Officer had an open mind and inquired into the case without any bias. Hence this contention has to be rejected.

(iv) The next contention of the applicant is that the case filed in the Court of District Munsif, Kurnool in O.A.No.224/84 was struck down and that itself proves that the charges cannot be sustained.

The details of that case have not been given in the OA. However, the reviewing authority had described concisely the facts of that case which were struck down by the District Munsif Court. It is stated that the case referred above was about erecting of a tent in front of the Post Office and causing nuisance in the public and that before the Munsif Court it was argued that there was no complaint from the public or police about the nuisance and

1

on that basis the case was struck down. When the respondents submit that the case has nothing to do with the present charge sheet, that statement, in our opinion, is absolutely in order. Hence this ground has got no leg to stand.

(v) The next contention of the applicant is that he being the Union official, the appellate authority had failed to give due consideration to the privileges of the office bearers of the union who are democratically fighting for justice to set right the wrongs committed to its employees. In this connection, the applicant submits that one Mr.N.S.Murthy though charge sheeted under rule 14 of the said rules, the same was dropped as he was a Union official. When that was dropped in the case of Mr.Murthy, the applicant cannot be singled out for punishment.

The above contention has no relevance for the present case. The charge sheet issued against an employee has to be examined on the facts of the case and it cannot be compared with any other case. For some reasons, the case against Mr.N.S.Murthy could have been dropped. But that does not mean, similar treatment should be given in the case of the applicant also. The applicant cannot demand as a matter of right to follow the verdict given in another case to apply same to him also. Hence this contention has to be rejected outright.

9. No other contention has been raised in this OA.

A handwritten signature is written in black ink, consisting of a stylized 'A' and a horizontal line extending to the right.

..13..

Copy to:

1. The Director of Postal Services, A.P.Southern Region, Kurnool.
2. The Postmaster General, A.P.Southern Region, Kurnool.
3. The Director General, Dept. of Posts, Dakshin, New Delhi.
4. One copy to Mr. Krishna Devan, Advocate, CAT, Hyderabad.
5. One copy to Mr. N.R.Devraj, Sr. CGSC, AT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

23/10/98

(X)

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 S.S.JAI PARAMESHWAR:
M(J)

DATED: 23/10/98

ORDER/JUDGMENT

M.A/R.A/C.P.N.C.

in
C.A.NO. 146/96

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLKR

