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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD  
O.A. No. 166 OF 1996

DATE OF ORDER : 28-7-1998

BETWEEN :

S. Venkata Ramana ... Applicant

AND

1. Department of Atomic Energy  
Heavy Water Project  
Government of India  
Manuguru  
Khammam Dist.  
(Represented by its General Manager)
2. Chief Executive  
Vikram Sarabhai Bhavan  
4th Floor  
Anu Shakti Nagar,  
Bombay 94. ... Respondents

COUNSELLS :

For the Applicant Shri V. Viswanadham

For the Respondents Shri N.V. Raghava Reddy

Coram :

Hon'ble Shri H. Rajendra Prasad - Member (A)

Hon'ble Shri B.S. Jai Parameshwar - Member (J)

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

Heard Shri V. Viswanadham for the Applicant and  
Shri W. Satyanarayana on behalf of Shri N.V. Raghava  
Reddy, Learned Standing Counsel for the Respondents.

The Applicant has been working as a Grade II driver  
under R-1. On the intervening night of 1st and 2nd  
September, 1993, the Applicant was on duty and was driving  
vehicle No. APH 9619. At that time he was accosted by  
CISF personnel.

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Thereafter by proceedings No. HWP(M)/ADM(E)/D-054/1702 dated 4-9-1993 the Applicant was placed under suspension.

Thereafter by proceedings HWP(M)/ADM(E)/D-054/1935 dated 8.10.93 he was served with a memorandum of charges. The misconduct alleged against the Applicant reads as follows :

ARTICLE - I

That the said Shri S.V. Ramana while functioning as Driver Gr. II in Heavy Water Plant (Manuguru) and while on duty in 'C' shift at 0040 hrs on 2.9.1993 was caught redhanded by the Crime & Int. staff of CISF while he was stealing lubricating oil from DM Plant Oil Store, (MP).

The above act on the part of Shri Ramana amounts to lack of integrity which is in violation of Rule 3(1) (i) of CCS (Conduct) Rules, 1964.

ARTICLE - II

That while functioning in the aforesaid office, the said Shri S.V. Ramana while detailed on Emergency duty on bus No. APH 9619 at CCR on 'C' shift on 1.9.1993 had deserted the place of duty viz., CCR, MP and taken away the Govt. vehicle while deserting the place of duty without any permission/intimation of/to Shift Superintendent, MP - Production.

The above acts on the part of Shri Ramana amount to lack of devotion to duty and unbecoming of a Government Servant which is in violation of Rules 3(i) (ii) & (iii) of CCS (Conduct) Rules, 1964.

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The Applicant submitted an explanation to the charges.

Respondent No. 1 not satisfied with the explanation directed to conduct an enquiry into the charges against the Applicant. Accordingly, a detailed enquiry was conducted into the said charges and the enquiry officer by his report dated nil (Annexure III) held that the charges levelled against him were proved.

A copy of the report of the enquiry was also furnished to the Applicant and he submitted a representation against the findings of the enquiry officer. Thereafter, the R-1 being the disciplinary authority, considered the representation as well as the findings recorded by the enquiry officer and by his proceedings No. HWP(M)/ADM(E)/D-054/C-415 dated 4th August, 1994 (Annexure IV) accepted the findings of the enquiry officer and imposed the penalty of reduction of pay of the Applicant by two stages from Rs. 1225/- to 1775 in the time scale of pay of Rs. 1,150/- - Rs. 1,500/- for a period of two years w.e.f. 1-8-1994. Further, he directed that the Applicant would ~~not~~ earn any increment during the period of reduction and that on the expiry of the period of reduction, the same would have the effect of postponing the future increments of his pay.

At this stage itself, we may observe that the disciplinary authority has not indicated as to how the period of suspension undergone by the Applicant would be treated.

Against the said order of punishment, the Applicant submitted an appeal to the Chief Executive, Heavy Water Board, Bombay. The Appellate Authority, i.e., R-2 by his proceedings No. HWB/TRS/6(18)(14)/985 dated 8/14th September, 1995 (Annexure III) considered the various grounds raised in the appeal and confirmed the punishment

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imposed by R-1 and rejected the appeal.

The Applicant has filed this O.A. challenging the order dated 4th August, 1994 of Respondent No. 1 and the order dated 8/14th September, 1995 passed by R-2, praying to quash them as illegal, arbitrary and consequently for a direction to the Respondents to set aside the above said orders and to pay all the consequential benefits.

The Applicant has challenged the enquiry proceedings. It is his contention that the enquiry officer violated the Principle of Natural Justice, that he was biased and that the authorities have not applied their mind to the facts of the case before passing the impugned orders.

A reply has been filed by the Respondents disputing all the contentions raised by the Applicant and further contending that the enquiry officer had followed the Principle of Natural Justice, and that there was no bias on the part of the enquiry officer, and that the authorities considered the report of the enquiry officer, that the time at which the CISF personnel apprehended the driver was midnight, and that it was for the Applicant to explain the facts fully as he was apprehended at the odd hour and that they relied upon the statement given by the Applicant immediately after he was apprehended by the CISF personnel. They furnished a copy of the statement at Annexure I to the reply.

The Applicant has not controverted anything stated in the reply by the Respondents by filing a rejoinder.

On going through the material papers and also the enclosures to the reply we are not convinced to come to the conclusion that there was any violation of the Principles of Natural Justice while conducting the disciplinary

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proceedings. If the enquiry officer was really biased, the Applicant should have submitted a representation to the disciplinary authority while the enquiry was in progress for a change of the enquiry officer. When the Applicant underwent the process of enquiry and participated in it, it may not be proper for him now to contend that the enquiry officer was biased. No material has been placed on record to come to the conclusion that the enquiry officer conducted/in a biased manner.

The Applicant has been imposed with a penalty // para described above. // It is the contention of the Applicant's Counsel that the disciplinary authority while imposing the penalty of reduction in the time-scale of pay has not followed the instructions given by the Ministry of Finance in the O.M. No. F.2(34)-E.III/59 dated 17th August, 1959 and 9th June, 1960. It is stated therein

"(a) Every order passed by a competent authority imposing on a Government servant the penalty of reduction to a lower stage in a time-scale should indicate :-

(i) the date from which it will take effect and the period (in terms of years and month) for which the penalty shall be operated;

(ii) the stage in the time-scale (in terms of rupees) to which the Government servant is reduced; and

(iii) the extent (in terms of years and months), if any, to which the period referred to at (i) above should operate to postpone future increments.

It should be noted that reduction to a lower stage in a time-scale is not permissible under the rules either for an unspecified period or as a permanent

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measure. Also when a Government servant is reduced to a particular stage, his pay will remain constant at that stage for the entire period of reduction. The period to be specified under (iii) should in no case exceed the period specified under (i)."

R-1 in view of the above noted O.M. should issue necessary orders and also while issuing the same should specifically indicate as to how the period of suspension undergone by the Applicant should be treated.

The Tribunal can neither interfere with the punishment, nor can it re-appraise the evidence and give a contrary finding. When that is so, from the material placed on record, we have no hesitation to come to the conclusion that the proceedings were proper, except to the extent indicated in the body of this order.

The disciplinary authority shall consider the O.M. mentioned above and issue necessary orders clarifying the penalty imposed by him and also specifically state as to how the period of suspension undergone by the Applicant from 4-9-1993 has to be treated.

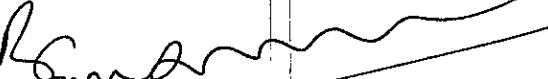
Having said this and having held that there is no legal right or merit in the O.A. we are inclined to observe that should the Applicant choose to file a revision petition to the concerned higher authority, such authority ought, perhaps, to consider whether the punishment imposed on him and undergone by him, together with any orders that may now be passed regarding the treatment of the period of suspension, are <sup>not, taken</sup> together, <sup>due</sup> in proportion to the lapses noticed on the Applicant's part. If on a judicious and detached consideration of all the

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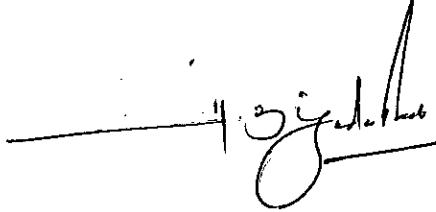
relevant facts, ~~if~~ the said authority comes to the conclusion that the punishment already undergone by the <sup>relative</sup> Applicant is in any way excessive <sup>to</sup> the offence committed by him, then a proper rectificatory order could always be issued in this connection. It is also to be borne in mind that the future effects of the punishment in such cases ought not to exceed the duration for which the initial punishment itself was operative. In this connection, the decision in the case of Nilkanta Sannyasi & another Vs Principal Accountant General (Audit) & others reported in (1995) 31 Administrative Tribunal cases 250 is relevant.

With the above observations, the O.A. is disallowed and disposed of.

  
(B.S. Jai Parameshwar)

Member (J)

28.7.98

  
(H. Rajendra Prasad)

Member (A)

DICTATED IN OPEN COURT

Dated : 28-7-1998

  
Deputy Registrar

...js/-

O.A. 166/96.

To

1. The General Manager, Dept. of Atomic Energy  
Heavy Water Project, Govt. of India,  
Manuguru, Khammam Dist.
2. The Chief Executive,  
Vikram Sarabhai Bhavan, 4th Floor,  
Anu Shakti Nagar, Bombay-94.
3. One copy to Mr. V. Viswanadham, Advocate, CAT. Hyd.
4. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC, CAT. Hyd.
5. One copy to HBSJP.M.(J) CAT. Hyd.
6. One copy to DR(A) CAT. Hyd.
7. One spare copy.

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE

VICE-CHAIRMAN  
AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

~~THE HON'BLE MR.B.S.JAIKARAN, MCA~~  
DATED: 28-7-1998.

~~ORDER/JUDGMENT~~

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

in

O.A.No.

166(98)96

T.A.No.

(w.p.)

Admitted and interim directions  
issued.

Allowed.

Disposed of with directions

~~Dismissed.~~

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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