

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 264 of 1996

Dated, the 23rd September, '98.

BETWEEN :

Velisetty Ramam Applicant

A N D

- 1. The Post Master General,
Visakhapatnam 530 003.
- 2. Superintendent of Post Offices,
Kakinada Division,
Kakinada 533 001.
- 3. Sub-Divisional Inspector (Postal),
Kakinada North Sub-Division,
Kakinada - 535 005.

... Respondents

COUNSELS :

For the Applicant : Mr. M.P. Chandra Mouli
 For the Respondent : Mr. K. Ramulu

CORAM :

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

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

ORDER

(PER : HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL))

Heard Sri. M.P. Chandramouli, U. Counsel

- 1. ~~None~~ for the applicant. Head Miss Shama for Mr.K Ramulu,
Learned Counsel for the respondents.

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2. Since the O.A. was filed during the early part of 1996, we were not inclined to adjourn the proceedings. Hence, we decided to dispose off the O.A. on merits in accordance with the Rule 15(1) of the Central Administrative Tribunals (Procedures) Rules, 1987.

3. This is an application filed under Section 19 of the Central Administrative Tribunals Act. The application was filed on 13.2.1996.

4. During the year 1992-93, the applicant was working as EDMC/DA at Rayavaram Branch Office. on 24.12.12.92, the SDI(Postal), ~~Sankot~~ conducted a surprise check of the Branch Office. He noticed certain irregularities committed by the applicant in the Branch Office.

5. As a result R-3 issued a charge memo by his proceedings No.PF/EDA/49 dt.15/31.12.1993 under Rule 8 of the P&T ED Staff Rules, 1964. The charges levelled against the applicant are as follows :

"Article No.1 : That the said V. Ramam while functioning as EDMC/DA Rayavaram BO a/w Gollaprolu SO during the period from 5.11.91 to 27.12.92 has failed to write the postman book from 15.12.92 to 23.12.92 and made the entries therein for the period from 26.11.92 to 14.12.92 on 23.12.92 and that he failed to clear the LB planted in P.Thimmaravaram village for 5 days prior to 7.11.92. Thus he failed to follow the provisions laid down in Rule 9 of Rules for Branch Offices and thereby failed to maintain devotion to duty as required in Rule-17 of P&T ED Agents (Conduct and Services) Rules, 1964.

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Article No.II: That the said Sri V. Ramam while functioning as EDMC/DA Rayavaram BO a/w Gollaprolu SO during the period from 5.11.91 to 29.12.92 was entrusted with the Kakinada Collectorate MO Nos (i) 1477-11 dtd. 25.1.92 (ii) 2382-11 dt. 27.6.92 and (iii) 4379-11 dtd. 29.10.92 for Rs.90 each payable to Kadali Venkayamma w/o Nagayya P. Thimmapuram village for payment has not actually paid them to the payee, but shown as paid on 27.1.92, 2.7.92 and 2.11.92 respectively. Thus he failed to follow the provisions laid down in Rule 10 and 76 of Rules for Branch Offices and thereby failed to maintain absolute integrity and devotion to duty as required in Rule 17 of P&T ED Agents (Conduct and Service) Rules, 1964."

- 6. The applicant submitted his explanation to the charge memo. He denied the charges and also explained certain circumstances.
- 7. A detailed inquiry was conducted into the charges by the ASP(HO), Kakinada. The applicant participated in the disciplinary proceedings. Ten witnesses were examined on behalf of the disciplinary authority and 17 documents were tendered in evidence. The applicant examined a witness on his behalf.
- 8. The applicant submitted his written brief. A copy of the same is at Annexure-AII (pages 16 to 20 of the O.A.)
- 9. The Inquiry Officer submitted his report dt. 27.12.94 (Pages 21 to 26 of the O.A.). The Inquiry Officer recorded the findings that the charges levelled against the accused were not proved. The Disciplinary Authority i.e. R-3 disagreed with the findings recorded by the Inquiry Officer. The notes of his

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disagreement was furnished to the applicant. A copy of the same is at Annexure-AIV (Pages 27 to 30 of the O.A). The applicant submitted his representation against the views of the R-3.

10. The R-3 after considering the inquiry records vide his proceedings No.PF/EDMC/DA/Rayavaram/95 dt. 31.3.95 imposed penalty of removal of the applicant from service. A copy of the order passed by R-3 dt. 31.3.95 is at Annexure-AV.

11. The applicant preferred an appeal dt. 22.5.95 against the penalty of removal of the applicant from service to R-2. The R-2 by his proceedings No.F7/4/92-93 dt. 12.7.95 rejected the appeal and confirmed the punishment.

12. The applicant submits that he submitted a review petition against the orders of the appellate authority. His review petition was dt. 17.8.95 and 23.9.95. He had submitted the review petition to the Director of Postal Services, Visakhapatnam Region. It is stated that he was informed vide letter dt. 17.10.95 that no review lies against an order passed by the appellate authority.

13. The applicant has filed this O.A. praying to call for the records relating to the orders passed by R-2 and R-3 to quash the said orders as illegal, arbitrary and void and for consequential direction to the respondents to reinstate him into the service as EDMC/DA,Rayavaram B.O.

14. The applicant has challenged the impugned orders on the following grounds :

(a) The disciplinary authority was prejudiced against him. His notes of disagreement against the findings of the Inquiry Officer was whimsical, capricious and prejudicial. He has failed to appreciate the evidence of his official superior who had stated that he was punctual in his work and that he could not complete the entries in the Postman Book due to domestic reasons and due to workload in the B.O.

His official superior had even stated that he was not residing within the area of the B.O. The disciplinary authority has ^{not} taken this fact into consideration.

15. The disciplinary authority has failed to consider his explanation and also evidence of the witnesses examined during the inquiry. The disciplinary authority unreasonably disagreed with the findings of the inquiry officer. The disciplinary authority had discarded the evidence of the departmental witnesses and placed reliance on the submissions said to have been made during the preliminary inquiry. It is stated that the witnesses examined during the inquiry had retraced from the statements they gave during the preliminary inquiry. There was absolutely no reason for the disciplinary authority to disagree with the findings recorded by the inquiry officer.

16. The appellate authority has mechanically endorsed the views of the disciplinary authority and rejected the appeal. The appellate authority has not properly considered the appeal submitted by him.

17. The respondents have filed a counter justifying the disagreement by the disciplinary authority on the findings recorded by the Inquiry Officer and having regard to the gravity of the charges levelled against the applicant, the punishment of removal from service was justified and that therefore there are absolutely no reasons to interfere with the impugned orders. It is further stated that the applicant was given every opportunity to prove his innocence of the charges.

18. The respondents have produced the inquiry proceedings. We have perused the same.



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19. The applicant was charged with 2 items of misconduct. Item No.1 of the articles of charges related to the non-maintenance of the Postman Book from 15.12.92 to 23.12.92 and made the entries therein on 23.12.92. Further, it is stated that the applicant failed to clear the Letter Box planted in P. Thimmapuram prior to 7.11.92.

20. This charge relates to the dereliction of duty on the part of the applicant. The applicant in his written brief dt. 10.10.94 has stated certain circumstances that the Postman Book was not supplied to the Branch Office and that the Branch Office S.B. Journal was utilised to write the Postman Book; that that there was work load in the B.O. and/he has some domestic problems. In fact, he admits to have not made the entries in the Postman Book between 15.12.92 to 23.12.92. The Postman Book is at Exhibit P-9B. In the last entry dt. 23.12.92, the applicant himself has stated that he made the said entries for the period from 14.12.92 to 23.12.92 on 23.12.1992. The endorsement made by the applicant in Ex. P9(b) in Postman Book clearly indicates that the entries for the period from 26.11.92 to 14.12.92 were made only on 23.12.92.

21. The explanation given by the official superior is that the applicant was attending to the duties regularly; that he used to clear the duties daily; and that there was some workload and that he had some domestic reasons. If this was the real position, he should have explained to the authorities immediately as to what the domestic reasons he had. The Disciplinary Authority has not accepted the explanation of the applicant that he could not make entries in the Postman Book from 26.11.92

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to 14.12.92 till 23.12.92 and also from 15.12.92 to 23.12.92. This part of dereliction of duty on the part of the applicant is admitted by the applicant himself or amply proved by records during the inquiry.

22. The second part of the Item No.1 of the charge is that the applicant failed to clear the Letter Box planted at P. Thimmapuram Village. One B. Ramarao a resident of P.Thimmapuram had lodged a complaint. When the applicant came to know about the complaint on 7.11.92, it is his version that he immediately went to P.Thimmapuram and cleared the Letter Box planted at P.Thimmapuram till 7.11.1992. The applicant himself states that he had not cleared the Letter Box on 6.11.92. The complaint was for non-clearance of the Letter Box for two days. He has not stated whether he had cleared the Letter Box earlier to 6.11.92. The applicant has not placed any material regarding prompt clearance of Letter Box earlier to 7.11.92. However, a portion of this allegation made against him regarding non-clearance of the Letter Box is admitted by him.

23. Therefore, on his own explanation or on the material available on record the allegations made against the applicant in Item No.1 of the charge is substantiated. The Disciplinary Authority was justified in disagreeing with the findings of the Inquiry Officer.

24. The Item No.2 of the charge memo is that between 5.1.92 and 29.1.92 the applicant was entrusted with Kakinada Collectorate M.Os. No.(i) 1477-11 dt. 25.1.92 (ii) 2382-11 dt. 27.6.92 and (iii) 4379-11 dt. 29.10.92 for Rs.90/- each payable to one Kadali Venkayamma w/o Nagayya resident of P. Thimmapuram Village. She was recipient of old age pension from the State. The applicant made entries to the effect that



the said amount was paid to the payee on 27.11.92, 27.11.92
 2.11.92 respectively. It is alleged that he was entitled
 ing payment of the M.O. sums even though the amount was not
 actually paid on those dates. It is further stated that
 payee Smt. Kadali Venkayamma was dead on those dates. Thus
 it is alleged that the applicant failed to follow the proce-
 dure laid down in Rule 10 and 16 of Rules for Branch Officer.
 25. The case of the Disciplinary Authority is that the
 entries made by the applicant showing to have paid the M.O.
 sums to the payee Smt. Kadali Venkayamma, w/o Nagayya, were
 actually false for the said payee, Kadali Venkayamma was
 dead by 27.11.92.

26. During the course of inquiry the Disciplinary Authority
 had examined the branches of the village, son and grandson of
 the said payee Kadali Venkayamma. These persons during the
 course of preliminary inquiry had given statements to the effect
 that Smt. Kadali Venkayamma was dead before 27.11.92 - about
 a year back. However, during the course of inquiry they
 resided from their earlier statements. Sri K.B.M. Swamy,
 Head Officer, had recorded the statements of these witnesses
 during the preliminary inquiry. Before Sri K.B.M. Swamy,
 3 witnesses stated that Kadali Venkayamma was dead about
 prior to their giving the statements. Before the Inquiry
 Officer, these 3 witnesses tried to state that Kadali Venkayamma
 died after Christmas 1992 and before Sankranti 1993 (i.e.
 after 28.12.92 and 14.1.93). Sri K.B.M. Swamy recorded the state-
 ments during January, 1993 - a few days after Sankranti.
 It really, Kadali Venkayamma died a few days ago, then the
 witnesses could have certainly stated the date of death of
 could have stated that she died a few days ago. They had
 close relations to her.

the said amount was paid to the payee on 27.1.92, 2.7.92 and 2.11.92 respectively. It is alleged that he mad entries regarding payment of the M.O. sums even though the amount was not actually paid on those dates. It is further stated that the payee Smt. Kadali Venkayamma was dead on those dates. Thus it is alleged that the applicant failed to follow the provisions laid down in Rule 10 and 76 of Rules for Branch Offices.

25. The case of the Disciplinary Authority is that the entries made by the applicant showing to have paid the M.O. sums to the payee Smt. Kadali Venkayamma, w/o Nagayya, were actually false for, the said payee, Kadali Venkayamma was dead by 27.11.92.

26. During the course of inquiry the Disciplinary Authority had examined the Serpanch of the village, son and grandson of the said payee Kadali Venkayamma. These persons during the course of preliminary inquiry had given statements to the effect that Smt. Kadali Venkayamma was dead before 27.11.92— about a year back. However, during the course of inquiry they resiled from their earlier statements. Sri K.B.N. Swamy, Mail Overseer, had recorded the statements of these witnesses during the preliminary inquiry. Before Sri K.B.N. Swamy, these 3 witnesses stated that Kadali Venkayamma was dead about 12 months prior to their giving the statements. Before the Inquiry Officer, these 3 witnesses tried to state that Kadali Venkayamma died after Christmas 1992 and before Sankranthi 1993 (i.e. after 25.12.92 and 14.1.93). Sri KBN Swamy recorded the statements during January, '93— a few days after Sankranthi. If really, Kadali Venkayamma died afew days agao, then these witnesses could have certainly stated the date of death or could have stated that shed died a few days age. They were close relations to her.

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27. The statements of these witnesses are tendered in evidence. The Inquiry Officer placed reliance on the statements made before him and ignored their earlier statements.

28. The Disciplinary Authority, after considering the inquiry records disagreed with the findings recorded by the Inquiry Officer.

29. The contentions of the applicant that the Disciplinary Authority was not justified in relying upon the earlier statements of these witnesses, is that they were not treated hostile by the presenting officer. This has no substance. Disciplinary proceedings is only a fact finding body. Strict rules of evidence is not applicable to the disciplinary proceedings. There was absolutely no prohibition for the Disciplinary Authority to rely upon the statements of these witnesses given before Sri KBN Swamy. His observations that these witnesses have chosen to resile from their earlier stand only to save the skin of the applicant, is justified. The Inquiry Officer, clearly, overlooked this aspect of the matter.

30. It is to be noted that even the witnesses, who attested the M.O. forms at the time of alleged payment tried to support the applicant.

31. If really, Smt. Kadali Venkayamma was alive on those dates, nothing prevented the applicant to produce or summon the Certificate of Death of Kadali Venkayamma. Both son and grandson of Kadali Venkayamma suppressed the actual date of death and tried to support the applicant.

32. For the aforesaid reasons, we are convinced that the Disciplinary Authority rightly disagreed with the findings of the Inquiry Officer. He has given his note of disagreement to the applicant. He has taken into consideration the explanations of the applicant before passing the final order.

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33. In page 4 of the O.A., it is stated that the applicant had submitted a review petition against the orders of the appellate authority. However, they have informed that no review lies. This information is not correct. Rule 16 of the Rules 1964 provides for review by the Post Master General. The applicant has not produced the said letter. We will leave at that.

34. The respondent authorities have taken proper decision as regards the quantum of punishment. We find no irregularity or illegality in the impugned orders.

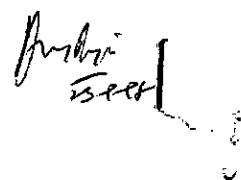
35. For the aforesaid reasons, the O.A. has no merits. Hence, the O.A. is dismissed. No order as to costs.

36. The Enquiry proceedings are perused and returned to the respondents.


(B.S. JAI PARAMESHWAR)
MEMBER (J)


(R. RANGARAJAN)
MEMBER (A)

Dated, the 23rd September, '98.



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Copy to:

1. The Postmaster General, Visakhapatnam.
2. Superintendent of Post Offices, Kakinada Division, Kakinada.
3. Sub Divisional Inspector, (Postal), Kakinada North Sub Division, Kakinada.
4. One copy to Mr. M. P. Chandramouli, Advocate, CAT, Hyderabad.
5. One copy to Mr. K. Ramulu, Addl. CGSC, CAT, Hyderabad.
6. One copy to D. R. (A), CAT, Hyderabad.
7. One duplicate copy.

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23/10/98

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II COURT

TYPED BY
CORRECTED 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: 23/9/88

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in

G.A. NO. 264/86

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH
- 9 OCT 1998
हैदराबाद न्यायपीठ
HYDERABAD BENCH