

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 27 of 1996

Date of Order: 15.3.96

Between:

D.John Subba Rao .. Applicant

and

1. Superintendent of Post Offices,
Khammam Division, Khammam.
2. The Director of Postal Services,
Vijayawada Region, Vijayawada.

Respondents.

For the Applicant :- Mr. P.Rathiah,

For the Respondents: Mr. V.Bhimanna
Ex./Add.CGSC

CORAM:

THE HON'BLE MR.JUSTICE (M.G.CHAUDHARI): VICE-CHAIRMAN

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

(52)

O.A.NO.27 of 1996

JUDGEMENT

Dt: 15.3.96

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE CHAIRMAN)

Heard Ms.Kadambari for Mr.P.Rathiah, learned counsel for the applicant and Shri V.Bhimanna, learned standing counsel for the respondents. Even though the respondents have not filed show cause reply in pursuance of the notice before admission, after going through the OA and the annexures thereto, we find no substance in this application.

2. A disciplinary inquiry was held against the applicant for a serious misconduct on various grounds as detailed in the memo of articles of charge and on conclusion of the inquiry, the Superintendent of Post Offices, Khammam Division, as a disciplinary authority, passed an order compulsorily retiring the applicant from service with immediate effect. That order was passed on 17.6.92. It appears that the appeal filed by the applicant was also dismissed on 30.7.92 by the appellate authority. No further proceedings were launched to challenge those orders and he stood compulsorily retired way back in 1992.

3. It appears that the applicant was also prosecuted for the offence under Section 409 IPC in the court of Judicial First Class Magistrate, Yellandu in CC No.243/91. By the judgement and order passed in that case on 9.1.95, the Criminal Court has acquitted the

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applicant giving him the benefit of doubt of the offence under Section 409 IPC. On the ground that he has been acquitted, the applicant now seeks that the respondents may be directed to reconsider their decision of compulsory retirement dt.17.6.92.

4. In the first place, the decisions in the disciplinary proceedings have not been challenged in this OA. There is no question of the respondents being directed to reconsider those decisions. Thus, the decisions have ^{assumed} formed finality and cannot be reopened by the respondents. Secondly, it appears that the order of compulsory retirement has fully taken effect way back in 1992 as even according to the applicant, the applicant is out of job. Thirdly, the orders of the year 1992 are not open to challenge now and bar of limitation clearly arises in the way of the applicant. Fourthly, the order of Criminal Court does not fully exonerate the applicant ~~inasmuch~~ inasmuch as the order is not of clear acquittal but ^a the benefit of doubt having been given ^{and} he has been acquitted. Where a person is acquitted giving him the benefit of doubt, the Department is entitled to hold a disciplinary inquiry and punish him independently if the misconduct is proved. Lastly, as rightly pointed out by Shri V.Bhimanna, the articles of charge in the disciplinary proceedings amounting to misconduct although may be relating to the same period and the same ~~incident~~ ^{conjunction}, they are not wholly the same ^{and it is the} as in the ^{criminal case} subject matter of the criminal case. The Department is was

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therefore, fully competent to proceed with the disciplinary inquiry particularly when it does not appear that any stay of the proceedings on the ground that a criminal case was pending was obtained. Since the two proceedings were based on different grounds no question of double jeopardy arises in this case. In the absence of challenge to the order of punishment and the order of compulsory retirement having taken effect fully, indeed there survives no relationship of employer and employee between the respondents and the applicant. Shri Bhimanna also stated on instructions that the applicant has already received the retiral benefits. Thus from no angle, there is scope to entertain this OA and the same is accordingly rejected.

H.Rajendra Prasad
(H.RAJENDRA PRASAD)
MEMBER (ADMN.)

M.G.CHAUDHARI
(M.G.CHAUDHARI)
VICE CHAIRMAN

DATED: 15th March, 1996
Open court dictation.

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To

1. The Superintendent of Post Offices,
Khammam Division, Khammam.
2. The Director of Postal Services,
Vijayawada Region, Vijayawada.
3. One copy to Mr.P.Rathaiah, Advocate, CAT.Hyd.
4. One copy to Mr.V.Bhimanna, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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15/4/96
I COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

M.G. Chandrasekhar
THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

H. Rajendra Prasad
THE HON'BLE MR.R. RANGARAJAN : M(A)

Dated: 15-3-1996

ORDER/JUDGMENT

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

in

O.A.No. 27/96

T.A.No. (w.p.No.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

No Spare Copy

