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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 489/96

Date of Order: 13.9.96

BETWEEN :

K.Balasundar

.. Applicant.

AND

1. The Union of India, rep. by the Secretary, Ministry of Defence, New Delhi.
2. The Scientific Advisor to the Ministry of Defence & Director General Research & Development, Directorate of Personnel Ministry of Defence, DHQ Post Office, New Delhi.
3. The Director, Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.K.Sudhakar Reddy

Counsel for the Respondents

.. Mr.V.Bhimanna

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

JUDGEMENT

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Heard Mr.K.Sudhakar Reddy, learned counsel for the applicant and Mr.V.Bhimanna, learned standing counsel for the respondents.

2. The applicant while working as Tradesman "C" in the office of R-3 was issued with a charge memo No.CF/1/6/1 (MV) dated 29.4. (A-1). The statement of imputations for misconduct may be seen at Annexure-2. An enquiry was ordered and the enquiry officer submitted a report (at page 19 to 22). (The enquiry officer had held that the charges framed against the applicant could not be proved. However the disciplinary authority disagreeing

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with the enquiry report imposed 4 penalties as per the impugned order No.CF/1/6/1(MC)/226, dated 29.1.96 (A-3). The applicant did not file any appeal to the appellate authority. This OA is filed for setting aside the impugned order No.CF/1/6/1(MC)/226 dated 29.1.96 by holding it as illegal, arbitrary and void ab initio.

3. The learned counsel for the applicant submits that the charge sheet was issued in the year 1977 and he was kept under suspension thereafter. The enquiry report was submitted sometime in 1995 and the punishment was imposed on him on 29.1.96. The applicant is to retire very shortly. Having suffered suspension from 1977 to 1996 he cannot wait for appeal to be disposed of as it will harm his interest especially in view of the fact that he is going to retire very shortly. In view of the above the learned counsel for the applicant submits that the case may be disposed of by the Tribunal on merits.

4. Section 20 of the AT Act 1985 stipulates that "a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances". The applicant has an alternate remedy by way of statutory appeal. Though the learned counsel for the applicant submits that he will be harmed if the case is not disposed of at this stage as he was under suspension from 1977 to 1996, I do not consider this plea as satisfactory to dispense with the statutory appeal available to him and interfere in the punishment order. However the respondents should dispose of his appeal, ~~if one is submitted within 30 days from today~~ by the applicant, within a period of two months from the date of receipt of the appeal as he was under suspension for a long period and he is also going to retire very shortly. Further it is seen that the impugned punishment order was issued on 29.1.96. Hence

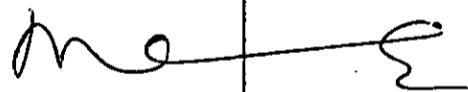
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it may be possible that the period for filing the appeal could have been over. Considering the circumstances I am of the opinion that if his appeal to be submitted now is not within the allowable period for submission of appeal, the delay in filing the appeal should be waived and the appeal should be considered on merit if the appeal is received by the appellate authority within 30 days from today.

5. In the result, the following direction is given :-

The applicant, if so advised, may file an appeal against the impugned order dt. 29.1.96 to the appropriate appellate authority (R-2) within a period of one month from today. The applicant is permitted to take all the available contentions including the contentions raised in this OA in his appeal. If such representation is received by the appellate authority within one month from today, delay if any in filing the appeal should be waived and the appeal should be disposed of on merit within 2 months from the date of receipt of the appeal.

6. The OA is ordered accordingly. No costs.



(R.RANGARAJAN)
Member (Admn.)

Dated: 13th September, 1996

(Dictated in Open Court)



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0.A.NO.489/96

Copy to:

1. The Secretary, Min. of Defence,
New Delhi.
2. The Scientific Adviser to the Ministry of
Defence & Director General,
Research and Development
Directorate of Personnel,
Min. of Defence, DHQ Post Office,
New Delhi.
3. The Director,
Defence Metallurgical Research
Laboratory, Kanchanbagh,
Hyderabad.
4. One copy to Mr.K.Sudhakar Reddy, Advocate,
CAT, Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC,
CAT, Hyderabad.
6. One copy to Library,CAT, Hyderabad.
7. One duplicate copy.

YLKR

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Checked By
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 13/8/96

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

in
O.A.NO. 489/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.

YLKR

II COURT

No Spare Copy

