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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 629 OF 1996

Dated, the 2nd Sept. 1996.

BETWEEN :

G.R. Sreeshylam ... Applicant
(since expired)

(PER: LEGAL REPRESENTATIVES)

1. G.S. Sabitha
2. G.S. Shailaja

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1. The Union of India, rep. by the Secretary to the Government, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Secretary, UPSC, Dholpur House, New Delhi.
3. The Director of Accounts (Postal) Andhra Circle, Hyderabad-1.

.. Respondents

COUNSELS:

For the Applicant : Mr. N. Rama Mohan Rao

For the Respondents : Mr. V. Bhimanna

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.)

1. Heard Mr. N. Rama Mohan Rao, Learned Counsel for the applicant and Mr. V. Bhimanna, Learned Standing Counsel for the respondents.
2. This is an application filed under Section 19 of the Central Administrative Tribunals Act, 1985.
3. The application was filed on 25th April, 1996.
4. The applicant herein, a retired Senior Accountant (Functional) in the Department of Posts, Hyderabad, has

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challenged the order No.F: 9-6/95-VP dt. 18.1.96, whereby the President of India has been pleased to withheld 10% of the monthly pension otherwise admissible to the applicant on permanent basis. During April, 1991, it appears that the applicant was involved in the Union activities of the Postal employees. On 8.4.91 the applicant is alleged to have instigated the Postal employees and organised a demonistration in the office premises and insited the staff members to agitate against the Head of the Office by shouting sloagons. Further, it is alleged that on 22.4.91, the applicant and others participated in the gherao of the Director of Accounts (Personnel) in her chambers and held her under wrongful restraint and prevented her from discharging her duties from 11.00 AM to 9.00 PM.

5. It is in this connection a charge memo bearing No.64/Admin.I/EA-II/Disc dt. 29.5.1991 was served and the disciplinary proceedings were initiated against the applicant.

6. The applicant participated in the disciplinary proceedings. Further, during the pendency of the same the applicant retired from service w.e.f. 30.11.93 on attaining the age of superannuation.

7. On conclusion of the enquiry, the Enquiry Officer submitted his report holding the applicant guilty of the charges.

8. After furnishing the copy of the report, the impugned order dt. 18.1.96 came to be passed.

9. During the pendency of the O.A. the applicant died. His legal representatives have come on record to prosecute the O.A.

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10. Challenge to the impugned order is made on the following grounds :

- a) There was inordinate delay in concluding the disciplinary proceedings.
- b) The applicant was to cross the Efficiency Bar in the running scale of Rs.1400-2600, during November, 1991. However, due to the pendency of the disciplinary proceedings he was not allowed to cross the same till his retirement.
- c) The applicant was innocent of the charges.
- d) Certain guidelines were issued by the Ministry of Home Affairs in No.25/CS/11/67/-ESTTS(A) dt. 13.4.67. During the enquiry, the said guidelines were not adhered to.
- e) The Director, who was supposed to have been gheraoed, had not ~~ever~~ ^{ever} lodged any complaint either with the Chief Post Master General or with the local Police.
- f) The Officer, who was a material witness in the enquiry, was not at all examined by the disciplinary authority.
- g) The applicant had attended the offices and duties during the month of April, 1991 and the respondents had disbursed the pay in full for the month of April, 1991.
- h) It is stated that one Smt. Nalini Sanjeeva Rao, was working as Director on 22.4.91. It is stated that the said Officer was moving from her chamber and was free to move or go anywhere on 22.4.91. It is stated that three officials would not have gheraoed her as alleged by the disciplinary authorities.
- i) The punishment imposed on the applicant is too harsh and grossly disproportionate.

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i) The procedure was not followed and principles of natural justice were violated during the enquiry, and there was no proper evidence to substantiate his misconduct.

11. The respondents have filed a counter stating that the applicant had committed the misconduct alleged against him in the charge memo ; that all the formalities of conducting the enquiry were followed; that the applicant and two other office bearers of the employees union were served charge sheet for their misconduct during the month of April, 1991; that the applicant had submitted his reply to the charges on 7.6.91; that the applicant was not allowed to cross the Efficiency Bar on account of non-recommendation of the same by the DPC as the disciplinary proceedings were pending against him; that the respondent authorities in consultation with the UPSC ordered to withhold 10% of the monthly pension otherwise admissible to the applicant on permanent basis. Thus the respondents submit that there are no reasons to interfere with the impugned order and that the O.A. be dismissed with costs.

12. During the course of arguments, the Learned Counsel for the applicant strongly contended that the enquiry was based on ~~Conjecture~~ ^{Conjecture} and surmises that, had he been indulged in any ~~activities~~ ^{activities} of the Union and had committed the misconduct, as alleged on 2.4.91 or on 22.4.91, the respondent authorities could have deducted the salary for those days in the month of April, 1991, that they have not done so; that it is highly improper to conclude that only three officers had gheraoed the Director of Postal Services; that the said Director was a material witness during the enquiry;

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O.A. 629 of 1996

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that the Director was not examined during the enquiry; that the Director had not ~~lodged~~ any complaint either to the Chief Post Master General or to the Local Police; that the material placed on record by the disciplinary authority does not justify the scale of punishment awarded. He further submitted that deduction of 10% of the monthly pension is too harsh having regard to the gravity of the misconduct levelled against the applicant.

13. It is to be noted that the impugned order is passed on 18.1.96. The applicant died on 4.6.96. (within a short period, the applicant died). Further, the fact that the respondent authorities had not deducted any pay during the month of April, 1991. If really the applicant had involved in any of the misconducts alleged against him in the charge memo, they should have deducted the salary for the period he was otherwise engaged. It is stated that the applicant had attended the office on 8.4.91 and 22.4.91 and had affixed his signature in the attendance register at the time of leaving the office premises. Further, learned Counsel for the applicant made a compassionate appeal to us to persuade that the imposition of the deduction of 10% of the monthly pension payable to the applicant on permanent basis has affected the applicant's dependents.

14. This Tribunal cannot sit in appeal over the findings recorded by the enquiry authority. During the course of hearing, the learned counsel for the applicant

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submitted strongly that the applicant has been put to double jeopardy, in that he was not allowed to cross the efficiency bar on account of pendency of the enquiry and also 10% of the monthly pension has been deducted on a permanent basis.

15. The Learned Counsel for the respondents, however, submitted that the respondent authorities may consider the case of the applicant for reviewing the punishment. As already stated above, this Tribunal cannot even interfere with the punishment. The authorities are fully competent to impose a condign punishment.

15. Only on compassionage ground, having regard to the fact that the applicant did not survive even for a period of 6 months after the impugned order, we feel it proper to direct the respondents to have a second look in the matter regarding imposition of ~~the~~ punishment.

16. Hence, we feel it proper to give the following directions :

- a) The respondents may consider adequacy or otherwise of the punishment imposed by the impugned order dt. 18.1.96. *and consider for reduction.*
- b) The respondent No.1 shall inform the decision taken by him as per above directions to the legal representatives of the deceased applicant through a speaking order.
- c) Time for compliance is 3 months from the date of receipt of this order.

17. O.A. is ordered accordingly. No order as to costs.

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

R. Rangarajan
(R. RANGARAJAN)
MEMBER (A)

Dated, the 2nd September, 1996.

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DA.629/96

Copy to:-

1. The Secretary to the Government, Ministry of Communications, Department of Posts, Dak Bhavan, Sansad Marg, New Delhi.
2. The Secretary, UPSC., Dhalpur House, New Delhi.
3. The Director of Accounts (Postal), Andhra Circle, Hyderabad.
4. One copy to Mr. N.Rama Mohan Rao, Advocate, CAT., Hyd.
5. One copy to Mr. V.Shimanna, Addl. CGSC., CAT., Hyd.
6. One copy to HBSOP M(J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

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II COURT

TYED 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 G.S. JAI PARAMESHWAR :
M(J)

DATED: 29/9/98

ORDER/JUDGMENT

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

in
C.A.NO. 629/96

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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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

11 SEP 1998

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HYDERABAD BENCH