

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A. 684 of 1996

BETWEEN :

K. Pratap Reddy

... Applicant

A N D

1. The Senior Superintendent of Post Offices, Hyderabad South East Division, Hyderabad.
2. The Director of Postal Services, Hyderabad City Division, Hyderabad.

COUNSELS:

For the Applicant : Mr. S. Ramakrishna Rao

For the Respondents : Mr. N.R. Devaraj

CORAM:

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

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

O R D E R

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

1. Heard Mr. S. Ramakrishna Rao, Learned Counsel for the applicant and Mr. N.R. Devaraj, Learned Standing Counsel for the respondents.

2. This is an application filed under Section 19 of the Central Administrative Tribunals Act. The application was filed on 7.6.96.

3. The facts giving raise to this O.A. may in brief be stated thus :

The applicant was working as Branch Post Master, at Kawadpalli, Account with Hayatnagar Sub-Office. On

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receipt of a complaint regarding non-delivery or delayed delivery of Postal Articles by the applicant, the Assistant Superintendent of Post Offices (Vigilance) in the Office of the CPMG, A.P Circle, Hyderabad paid a surprise visit to the Branch Office. During the course of his surprise visit and he noticed certain Postal Letters/Registered Postal Articles, were not delivered for months together.

4. As a result of this surprise visit, the applicant was put off ^{from} duty from 5.5.93.

5. The R-1 issued a charge sheet under Rule 8 of the P&T ~~EDA~~ Departmental Staff (Conditions and Service) Rules 1964 vide his proceedings No.B.III/BPM/Kawadpalli dt. 15.9.93. The applicant was charged as under :

"ARTICLE-I

Shri K. Pratap Reddy, EDBPM (put off duty) while working as BPM Kawadpalli BO a/w Hayathnagar SO during the period from 5.9.198 to 27.4.93, has retained 19 unregistered letters and one registered letter No.1889 dtd. 27.12.92 received on 4.1.93 and for 4 months, in contravention of Rule 66,71(1) and 86 of Book of BO Rules and thus the said Shri K. Pratap Reddy fails to maintain absolute integrity and devotion to duty as required by the provisions of Rule 17 of P&T EDA (Conduct and Service) Rules, 1964.

ARTICLE-II

That during the aforesaid period and where in the aforesaid office the said Shri K. Pratap Reddy fails to effect delivery of Registered letter No.2902 dt. 4.8.90 and kept un-delivered upto 17.1.93. The BPM has rebooked the same letter at Hyderabad GPO under Registered letter No.4816 dtd. 18.1.93. The Registered letter received by the BO village on 19.1.93 and kept undelivered upto 30.1.1993 and delivered to the addressee on 31.1.93 without noting remarks in B.O. Journal for non-delivery of Registered letter from 19.1.93 to 30.1.93, in contravention of Rule 71(1) 86 of B.O. Rules and failed to maintain absolute integrity and devotion to duty as required by the provision of Rule 17 of P&T EDA (Conduct and Service) Rules, 1964.

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ARTICLE-III

That during the aforesaid period and while functioning in the aforesaid office the said Shri K. Pratap Reddy fails to effect delivery of Registered letter No.35655 of Riyadh received on 15.7.92 till 29.12.92 and delivered on 30.12.92, he did not follow the procedure prescribed in Rule 71(1) and 86 of Book of BO Rules and thus failed to maintain absolute integrity and devotion to duty as required by the provisions of Rule 17 of P&T EDA (Conduct and Service Rules, 1964."

6. A detailed inquiry was conducted into the charges. The inquiry was conducted by the Assistant Superintendent of Post Offices, South Sub-Division, Hyderabad. The applicant participated in the disciplinary proceedings. Witnesses were examined on behalf of the disciplinary authority and documents were tendered in evidence on 21.11.94. The Inquiry Officer submitted his report. The Inquiry Officer recorded the findings that all the charges levelled against the applicant were proved. A copy of the report of the Inquiry Officer is at Annexure-VII, pages 27-37 of the O.A. A copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his representation against the findings recorded by the Inquiry Officer. A copy of the representation submitted by the applicant is at Annexure-VIII, pages 42 to 45 of the O.A.
7. The R-1 after considering the report of the Inquiry Officer, representation of the applicant and the inquiry records agreed with the findings recorded by the Inquiry Officer and by his proceedings of even number dated 11.1.95 imposed a penalty of removal of the applicant from service. A copy of the order passed by R-1 is at Annexure-I, pages 12 to 13 of the O.A. The applicant preferred an appeal against

the penalty order to R-2. His appeal is dated 4.2.95.

R-2 considered his appeal and by his proceedings No. ST/16/HD/5/95 dt. 1.3.96 rejected the appeal and confirmed the punishment. A copy of the order passed by the Appellate Authority is at Annexure-X, pages 46 to 50 to the O.A.

8. The applicant has filed this O.A. challenging the order dt. 1.3.96 passed by the Appellate Authority as illegal, unwarranted, frivolous and in violation of the Articles 14 and 16 of the Constitution and for consequential direction to the respondents to reinstate the applicant into service with consequential benefits.

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

(a) The Inquiry Officer had not permitted to take the services of an Assistant to defend him in the inquiry. Thus the principles of natural justice were violated.

(b) During the inquiry most of the witnesses cited in Annexure-I to the charge memo did not appear. The other witnesses who were unconnected with the inquiry were examined. It is his contention that Sri Satyanarayana, son of Yettaiah is not a competent witness to speak about the non-delivery or the delayed delivery of the Registered letters addressed to his father Yettaiah.

(c) The R-2 has not considered various grounds raised in the appeal. The disciplinary authority has not considered the grounds raised in his representation; and

(d) The order of the Appellate Authority is cryptic. The Appellate Authority has not considered various defects committed during the inquiry.

10. The respondents have filed their counter explaining that the applicant was put off from duty before initiation of the disciplinary proceedings. They submit that in the first.

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instance the applicant had expressed his willingness to secure the services of Sri A.D. Varu, LSGPA to defend him in the inquiry; that Sri A.D. Varu was himself facing the disciplinary proceedings; that the authorities felt that the date of inquiry in connection with Sri A.D. Varu and the date of inquiry fixed by the Inquiry Officer in connection with the inquiry of the applicant may clash each other that they refused his services; that the applicant wanted to know the reasons for the refusal of his request for securing the services of Sri A.D. Varu and that the respondent authorities explained the reasons. Thereafter, the applicant requested the Inquiry Officer to engage the services of one Kannaiah and that thereafter the applicant submitted a bias petition. Considering the bias petition and realising that it would be justified to provide the applicant of his choice viz., the services of Sri A.D. Varu, the respondent authorities permitted Sri A.D. Varu to assist the applicant in the inquiry that in the meantime, the applicant himself expressed consent to the Inquiry Officer to examine 2 witnesses; that the applicant had not cross examined those witnesses; and that subsequently, the applicant was assisted by Sri A.D. Varu.

11. There was no inordinate delay in the disposal of the appeal submitted by the applicant; that since the grievance of the applicant was redressed by allowing him to have the services of Sri A.D. Varu to defend him in the inquiry his representation was deemed to have been considered. Therefore, the contention that the representation was still pending is not correct.

12. That ^{the} appellate authority has considered the grounds raised in the appeal memo; that the contention of the applicant that during the inquiry the charges were not substantiated has no substance; that the contention of the applicant

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that the daily account was not produced during the inquiry has no basis as the applicant himself was expected to make necessary remarks on the non-delivered articles and he should have noted in the relevant records and returned them to the Accounts Office for disposal; that the applicant did not follow the Post Office procedure; that a registered letter (R.L.No.2909/4.8.90) received in the B.O. during the year 1990 was found undelivered till January 1, 1993, that the applicant had re-booked the same under RL No.4816/18.1.93 at GPO Hyderabad received the same in the B.O. on 19.1.93, and delivered the registered letter to the addressee on 30.1.93; that the said registered letter contained Life Insurance Policy of Sri Yettaiah; that Sri Satyanarayana, son of Yettaiah was examined during the inquiry; that the earlier Registered letter received during the year 1990 and its non-delivery of the registered letter between 1990 and 19.1.93, the applicant had to explain; that the applicant was to prove the earlier non-delivery of the registered letter to Yettaiah; that, at no time, the applicant had expressed his willingness to examine Yettaiah on his behalf; that there were no grounds to accept the contention of the applicant that the Inquiry Officer was biased towards him and that there are no grounds to interfere with the impugned orders. Thus they submit that the O.A. is liable to be dismissed.

12. The respondents have produced the inquiry records. We have perused the same.

13. The first ground of the applicant is that the Inquiry Officer was biased towards him. It is not made clear as to how the Inquiry Officer had a biased view towards him. Mere saying that the Inquiry Officer was biased towards him is not a sufficient ground to accept his version.

14. On perusal of the inquiry records it was revealed that the Preliminary Inquiry was started on 7.1.94. On that day, the applicant expressed his willingness to secure the services of an employee to defend him in the inquiry. The Inquiry Officer gave time to the applicant till 19.2.94.

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15. On 19.2.94, the applicant and the assistant Sri A.D. Varu were present. On that day copies of documents were given to the applicant. The Inquiry Officer accepted the nomination of Sri A.D. Varu and posted the case on 28.3.94.

16. In the meanwhile, the authorities noticed that the defence assistant of the applicant viz. Sri A.D. Varu was facing a disciplinary proceedings. Therefore, the respondent authorities thought that date of inquiry of disciplinary proceedings with respect to Sri A.D. Varu and the date of inquiry of the applicant may clash and it may not be possible to spare the services of Sri A.D. Varu to defend the applicant. Thus they withdrew the services of Sri A.D. Varu from the inquiry. On that day the applicant was requested to nominate another employee for assistance. The applicant took time. The Inquiry Officer had granted time till 9.4.94. In the meanwhile, the applicant submitted a letter seeking reasons for the withdrawal of the services of his assistant viz. Sri A.D. Varu. The applicant prayed for suspension of the inquiry. The representation given by the applicant was forwarded to the Senior Superintendent of Post Offices, Hyderabad South Division. On that day certain documents were produced by the Presenting Officer.

17. On 11.5.94, the applicant was explained the reasons for withdrawing the services of Sri A.D. Varu. On that day 2 witnesses viz. P.V. Subba Rao and DVB Vasanta rayalu Superintendent of Post Offices were present. The applicant agreed for continuance of the proceedings and assured the Inquiry Officer that he would get the services of an assistant before the next date of hearing. Accordingly, the Inquiry Officer examined the witnesses present. The applicant stated that he had nothing to cross examine the witnesses.

17. The inquiry proceedings were held on 6.6.94. On that day 2 more witnesses were present. On that day the applicant expressed his inclination to secure the services of one Sri Kanniah a retired Group 'B' Officer. However, he failed to keep the said officer present on that day. Since the assistant to the applicant failed to turn up the applicant himself agreed for the examination of the witnesses present. Accordingly on that day Sri D.V. Vasantha Rayalua and PV Subba Rao were examined as witnesses.

18. Thereafter, the applicant submitted the biased petition against the Inquiry Officer. It is in this background the respondent authorities permitted the services of Sri A.D. Varu to defend the applicant. On 27.6.94 there were no witnesses. On that day the Presenting Officer was reported to be ill. Hence, the proceedings were adjourned to 13.9.94. On 13.9.94 Satyanarayana was examined as PW-7. Thus the evidence on behalf of the disciplinary authority was concluded. The Inquiry Officer enquired the applicant whether he was willing to examine himself. The applicant expressed that he was not examining himself as a witness in the inquiry.

19. From the proceedings of the inquiry, we are not convinced to accept the contention of the applicant that he was not given opportunity and that the Inquiry Officer was biased towards him.

20. Hence, we do not find any reason to interfere with the impugned orders of the respondent authorities on the ground of biased nature or not given sufficient opportunity.

21. The charges levelled against the applicant are with

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respect to non-delivery of letters or registered letters and particularly, a registered letter addressed to Yettaiah during the year 1990 was not delivered till January, 1993 and that earlier to 19.1.93, the applicant got the same registered and received the same on 19.1.93 and failed to serve the same on the addressee till 31.1.93. In fact, Yettaiah has not been examined in the inquiry. But the fact remains that the said registered letter was served on Yettaiah only on 31.1.93. The applicant has not submitted the reasons for non-service of the said registered letter at least between 19.1.93 and 31.1.93.

22. The applicant prayed for verification of certain documents. In fact, the inquiry authority during the proceedings of the inquiry itself, furnished the copies of all the documents sought for, by the applicant. Hence, there is no justification for the applicant to contend that he was not furnished with the necessary documents. The grievance of the applicant is that the disciplinary authority has not considered various grounds raised in the representation. The applicant submitted his representation against the findings of the Inquiry Officer. The disciplinary authority may accept the findings of the Inquiry Officer or reject the same. In this case, the disciplinary authority accepted the findings recorded by the Inquiry Officer.

When the disciplinary authority chose to accept the findings recorded by the Inquiry Officer, he is not expected to disclose any reasons straightaway by his order. Therefore, there is no justification for the applicant to contend that the disciplinary authority has not considered his representation against the findings of the Inquiry Officer.

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22. The next contention of the applicant is that the order of the appellate authority is cryptic. The order of the appellate authority is at pages 46 to 60 to the O.A. We have perused the same. The appellate authority has considered the grounds raised by the applicant in the memorandum of appeal. It cannot be treated as cryptic one, as contended by the applicant.

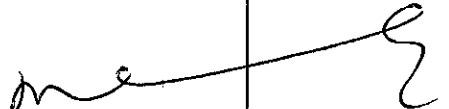
23. The appellate authority has agreed with the disciplinary authority as regards the punishment. The powers of the Tribunal in the matter of disciplinary proceedings are very much limited. This Tribunal cannot interfere with the punishment imposed by the respondent authorities. The appellate authority has considered the same in his order.

24. In view of the facts stated above, we do not find any irregularity or illegality in the impugned orders. Hence, the O.A. is liable to be dismissed.

25. Accordingly, the O.A. is dismissed. No order as to costs.

26. The inquiry proceedings submitted by the respondents are perused by us and returned to the respondents.


(B.S. JAI PARAMESHWAR)
MEMBER (J)
19.11.98


(R. RANGARAJAN)
MEMBER (A)

Dated, the 19th November, '98.


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Copy to:

1. The Senior Superintendent of Post Offices,
Hyderabad South East Division,
Hyderabad.
2. The Director of Postal Services, Hyderabad City Division,
Hyderabad.
3. One copy to Mr. S. Ramakrishna Rao, Advocate, AT, Hyderabad.
4. One copy to Mr. N. R. Devraj, Sr. CGSC, AT, Hyderabad.
5. One copy to D. R. (A), CAT, Hyderabad.
6. One copy to HBSJP, M(J), CAT, Hyderabad.
7. One duplicate copy.

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7/12/98

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II COURT

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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: 19/11/98

ORDER/JUDGMENT

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

in
O.A.NO. 684/98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH
- 3 DEC 1998
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HYDERABAD BENCH