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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1309/96

Date of decision: 18.11.96

Between

N.K.Sunkappa

.. Applicant

and

1. The Superintendent of Post
Offices,
Guntakal Postal Division,
Guntakal.

2. The Director of Postal Services,
Kurnool Region,
Kurnool.

3. The Postmaster General,
Kurnool Region, Kurnool.

4. The Member (P),
Postal Services Board,
Dak Sadan, New Delhi. Respondents

Mr. S. Ramakrishna Rao .. Counsel for the applicant

Mr. W.Satyanarayana for [REDACTED] .. Counsel for respondents

Mr.NV Raghava Reddy,
CORAM

HON'BLE SHRI JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN

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

O R D E R

Oral Order (per Hon'ble Shri Justice M.G.Chaudhari, VC)

Shri S. Ramakrishna Rao for the applicant.

Although on 11.11.96 when Mr. N.V.Raghava Reddy,
Standing Counsel for the respondents was present we had issued
notice before admission, the respondents have not chosen to
file any show cause reply nor the said Standing Counsel is
present.

2. This is a very peculiar application whereunder the
applicant does not challenge the order of punishment but merely
seeks a direction to respondent No.3 to forward his petition
to Member (P), Postal Services Board, New Delhi, ^{after} declaring the
action of the third respondent to withhold the same ^{as} is arbitrary.

[Signature]

unwarranted, illegal and in violation of articles 14 and 16 of the Constitution, with a further direction to the 4th respondent to dispose of the case on merits. The 4th respondent is Member (P), Postal Services Board, New Delhi.

3. We do not know as to under that provision of law an authority not prescribed under the law to deal with the subject matter can be compelled to hear a petition or an authority subordinate to it could be compelled to forward whatever petition is filed, notwithstanding that it is not in accordance with the law or the rules.

4. An order of dismissal from service was passed against the applicant under Rule 8 of P&T ED Agents (Conduct and Service) Rules, 1965 by the disciplinary authority. An appeal against that order has been dismissed by the Director of Postal Services. Thereafter the Postmaster General, Kurnool Region, in exercise~~s~~ of his statutory powers reviewed the order of punishment suo motu and after giving show cause notice to the applicant has enhanced the punishment from debarring him from appearing in any departmental examination for a period of 3 years to that of dismissal from service. That order was passed on 16.8.96.

5. On 14.9.96 the applicant ~~perpetrated~~ ^{purported} to file a revision under Rule 16 of the aforesaid Rules, addressed to the Member (P), Postal Services Board, New Delhi, through the proper channel.

The Postmaster General, Kurnool, has refused to forward ~~it~~ vide his reply dated 11.10.96, stating therein that according to the instructions of the D.G. dated 31.5.93, once a case of EDA is reviewed either by the superior authority/PMG in any manner, no further application for review can be entertained ^{was} on any ground. The applicant ~~is~~ therefore informed that his petition cannot be forwarded to the Member (P) as he has sought. This is what ^{is} challenged in this O.A.

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6. Mr. W. Satyanarayana holding for the learned Standing Counsel for the respondents has made available to us copy of the DG's instructions. It is quite clear from those instructions dated 31.5.93 vide letter No. 20-14/91-ED & TRG, that it provides thus:

"An application for review under Rule 16 of EDAs (Conduct & Service) Rules, 1964, received from an ED Agent, addressed to any authority, should not be forwarded to this office as a matter of routine under any circumstances if the reviewing powers have already been exercised by any of the respective authorities."

We have no doubt that the Member (P), Postal Services Board is a part of the establishment of the D.G.

7. The request of the applicant can be considered only if he is able to point out that he has statutory right of his review being heard by the Board. In this connection it may be stated that the disciplinary enquiry was held under Rule 8^{gr.w.7} and it is fallacious to say that since the reviewing authority had enhanced the punishment that is the starting point of the enquiry. Rule 10 of the EDAs (Conduct and Service) Rules 1964 provides for appeal to an authority superior to the authority imposing the penalty. Rule 16 provides for review of the orders by the Central Government or the Head of the Circle, or Post Master General (Regions), as the case may be, or an authority immediately superior to the authority passing the orders. That rule also empowers the reviewing authority to pass such orders as are deemed fit including enhancing of penalty after giving reasonable opportunity to the employee concerned to make representation against the enhancement. The rules do not provide for any further review to any authority including the Board or the DG or the Member (P) of the Board.

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8. In the instant case the applicant has availed of the remedy of appeal under Rule 10 and the order of review has been passed by the PMG, acting under Rule 16. There is no further remedy provided under the rules so as to enable the applicant, as a matter of right, to approach R-4, i.e., the Member (P), Postal Services Board, New Delhi. The R-3, therefore, cannot be held to be under a statutory obligation to forward the petition of the applicant to R-4 and his refusal to do so therefore is not justiciable.

O R D E R

We, therefore, do not find any merit in this application which is filed for the limited relief as set out above, and hence reject the same.


(H. Rajendra Prasad)
Member (A)


(M.G. Chaudhari)
Vice Chairman

Dated: 18th November 1996


Deputy Registrar (S) CC

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O.A. 1309/96.

To

1. The Superintendent of Post Offices,
Guntakal Postal Division, Guntakal.
2. The Director of Postal Services,
Kurnool Region,
Kurnool.
3. The Postmaster General,
Kurnool Region, Kurnool.
4. The Member(P) Postal Services Board,
Dak Sadan, New Delhi.
5. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.V.Raghava Reddy, Addl.CCSC. CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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17/12/96
I COURT

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 18-11-1996

ORDER / JUGMENT

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

in

O.A.No. 1309/96

T.A.No.

(w.p.)

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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