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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.220 OF 1997.

DATE OF ORDER:28-9-1998.

Between:

M.Sanjeeva Kumar. .. Applicant

and

1. Superintendent of Post Offices,
Sangareddy Postal Division,
Sangareddy, District Medak.
2. The Director of Postal Services,
Hyderabad Region, Hyderabad.
3. Postmaster General, Hyderabad Region,
Hyderabad.
4. Member(P),
Postal Services Board, New Delhi.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS: Mr.V.Bhimanna

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER(ADMIN)

AND

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER(JUDL)

: ORDER :

ORAL ORDER(AS PER HON'BLE SRI R.RANGARAJAN, MEMBER(A))

Heard Mr.S.Ramakrishna Rao for the Applicant
and none for the Respondents.

2. The short facts of this case ^{are} as follows:-

3. The applicant was issued with a Charge Sheet for unauthorised absence and also for availing leave beyond 180 days by Memo No.B3/Waddi, dated:27-1-1993 (Annexure A-II to the OA). The Disciplinary Authority viz.,

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Respondent No.1 by Proceedings No.83/Waddi, dated: 21-5-1993 removed the applicant from service. The applicant filed an appeal to Respondent No.2 on 22-6-1993. That appeal is not enclosed. However, the Appellate Authority viz., Respondent No.2 in Memo No.ST/21-4/6/93, dated:10-11-1993 ordered denovo proceedings from the stage of forwarding a copy of the Inquiry Report to the Government Servant and taking appropriate further action as deemed fit. On that basis, the Disciplinary Authority, Respondent No.1 by proceedings Memo.No.83/Waddi, dated: 10-1-1994 passed the following Order:-

- "i) The E.D. Agent be reinstated as ED BPM, Waddi B.O. a/w Hadnur S.O. with immediate effect, as if he is appointed afresh; and
- ii) that the service rendered earlier will not count for seniority, promotion etc., and it is forfeited once for all purposes."

4. It is not clear when the denovo proceedings had been conducted, whether the applicant had been reinstated ^{to} in service. When the denovo proceedings were initiated is not known. The applicant now submits belatedly that the denovo proceedings can be initiated only after an employer or employee's relationship is established. As he was not taken back on duty, the question of ^{conducting} denovo proceedings does not arise. But it appears that he has not made this point to Respondent No.2 when a suo moto proceedings were initiated by Respondent No.2 or in his appeal to Respondent No.3 when he filed a representation challenging the Orders of Respondent No.2.

5. Be that as it may, the Respondent No.2 rejected the case of the applicant suo-moto for adhering to the Orders passed by Respondent No.1, dated:10-1-1994 and

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issued a Show Cause Notice by memo No.ST/21-7/5/94, dated:26-10-1994 (Annexure.A-V to the OA) for enhancing the penalty to that of removal from service. The applicant replied ^{to} _L the Show Cause Notice on 14-11-1994 and Respondent No.2 passed the Order by Memo No.ST/21-7/5/94, dated:22-12-1994 removing him from service. Against that Order, the applicant filed an appeal to Respondent No.3, the copy of the appeal is not enclosed. That appeal dated:7-1-1995 was disposed of by Proceedings in Memo.No.ST/21-4/3/95, dated:21-8-1995 rejecting his appeal. The applicant further submitted a petition against the Order of the Respondent No.3 to Respondent No.4 by his representation dated:30-12-1995 (Annexure.A-VII to the OA). That appeal is yet to be disposed of. In that appeal his contention of not reinstating him in service when ^{enquiry} _{proceedings} denovo was ordered has been indicated in Para.(3)(i) of that appeal dated:30-12-1995.

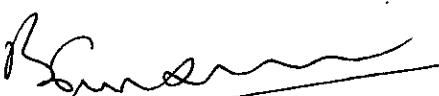
6. This OA is filed to set aside the impugned Memo. No.B3/Waddi, dated:21-5-1993 issued by Respondent No.1 and all further consequential proceedings in No.ST/21-7/5/94, dated:22-12-1994 of Respondent No.2 and No.ST/21-4/3/95, dated:21-8-1995 of the 3rd Respondent, and for a consequential direction to the Respondents to reinstate the applicant into service with all consequential benefits.

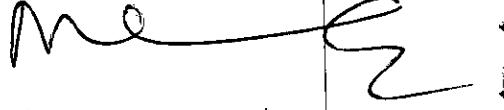
7. Normally, an employee has to be reinstated in accordance with the CCS(CCA)Rules if the Inquiry Proceedings are to be ~~repeated~~ or denovo proceedings are to be initiated in view of the Appellate Order. But it appears that was not done in this case and the applicant had also failed to challenge the initiation of denovo proceedings without reinstating him ^{— into service —} at that stage itself. He submitted his explanation to the Show

Cause Notice issued by the Respondent No.2 which was rejected and he was removed from service. Thereafter, also it appears that the above point was not mentioned in his appeal to Respondent No.3. Belatedly he had brought that point to the notice of Respondent No.4 in his representation dated:30-12-1995. At this juncture, any technical error which results setting aside of Orders is considered, that will lead to complications as the proceedings had reached the Respondent No.4. Hence, we are of the opinion that Respondent No.4 should take note of the contentions raised by the applicant in his appeal dated:30-12-1995 especially in para 3(i) of his representation dated:30-12-1995 and also the observations made in this Judgment and pass a Speaking Order to the appeal of the applicant dated:30-12-1995 within a period of three months from the date of receipt of a copy of this Order. That will enable the respondents to pass an appropriate Order considering all the contentions raised in this OA.

8. In view of what is stated above, Respondent No.4 is directed to dispose of the representation of the applicant dated:30-12-1995 taking due note of Para.(3)(i) of his appeal and pass a Speaking Order within three months from the date of receipt of a copy of this Order.

9. The OA is ordered accordingly. No costs.

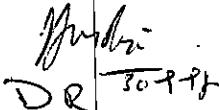

(B.S.JAI PARAMESHWARR)
28/9/98 MEMBER (JUDL)


(R.RANGARAJAN)
MEMBER (ADMN)

Dated: this the 28th day of September, 1998

Dictated to steno in the Open Court

DSN


DR 30-9-98

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Copy to:

1. Superintendent of Post Offices, Sangareddy Postal Division, Sangareddy, Medak District.
2. The Director of Postal Services, Hyderabad Region, Hyderabad.
3. Postmaster General, Hyderabad Region, Hyderabad.
4. Member (P), Postal Services Board, New Delhi.
5. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr. V. Bhimanna, Addl. CGSC, AT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

YLKR

28/10/98
(S)

II COURT

TYPED BY
COMPIRED BY

CHECKED BY
APPRVED 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: 28/10/98

ORDER/JUDGMENT

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

in

C.A.NO. 220/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

NO ORDER AS TO COSTS

YLR

