

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT: HYDERABAD

O.A. No. 31 of 1997

BETWEEN:

C. Ganesh Chetty S/o V. Chengalvaraya Chetty,
aged about 59 years, Postal Assistant (dismissed),
194/5, Bazaar Street, Santhapet,
Chittoor-517 004 A.P.

APPLICANT

A N D

1. The Postmaster-General,
Kurnool Region, Kurnool.
2. Director of Postal Services,
Kurnool Region, Kurnool.
3. Senior Superintendent of Post Offices,
Chittoor Division, Chittoor.

RESPONDENTS

DETAILS OF THE APPLICANT:

Address for service of summons/ SANKA RAMA KRISHNA RAO
notices on the applicant: ADVOCATE, 1-1-230/9,
Andhra Bank Lane,
Chikkadpally, HYDERABAD.20.

1. Particulars of the order against which the application is made:

"This application is against the impugned order No.Inv/4-1/92 KW dated 13.3.1996 of the IInd Respondent dismissing the applicant from service, under Rule 19(1) even though the conviction of the applicant was set aside."

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal u/s.14(1)(b)(ii) of the Administrative Tribunals Act, 1985.

3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed in Section 21(1)(a) of the Administrative Tribunals Act, 1985.

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C. Ganesh Chetty

4. FACTS OF THE CASE:

(1) It is respectfully submitted that the applicant on his discharge from Army jointed Postal Services as Postal Assistant in Chittoor Postal Division in 1967. He got his promotion to Lower selection Grade on completion of 16 years of service in 1984 and has come under the jurisdiction of IInd Respondent in matters concerning appointing authority. While in that grade, he worked as Sub-Postmaster, Chittoor North from 2.6.1988 to 4.6.1992. Thereafter he worked as dealing assistant in the office of IIIrd Respondent and then Postal Assistant Chittoor Head Post Office.

(2) While so, as a result of departmental enquiries into alleged irregularities in the Savings Bank relating to the applicant's tenure at Chittoor North post office, the IInd Respondent placed him under suspension from 27.6.1992. At the same time IIIrd Respondent caused a judicial proceedings in C.C.No.4 of 1993 in the Court of Special Judge for CBI Cases, Hyderabad. The judicial proceedings ended in convicting and sentencing the applicant to undergo 2 years R.I. and to pay a fine of Rs.3,000/- on different counts. Aggrieved by the conviction, the applicant preferred an appeal in the A.P. High Court, Hyderabad in Cr. Appeal No.130 of 1994. When the appeal was pending, IInd Respondent in a disciplinary proceeding under Rule 19(1) of CCS (CCA) Rules, 1965, solely on the ground of conduct leading to conviction on a criminal charge, dismissed the applicant from service effective from 13.3.1996. Subsequently on 7.8.1996 the Hon'ble High Court (A.P.) decided the appeal setting aside the conviction and the sentence ordered by the lower court. As the conviction on criminal charge was set aside by the

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C. Gaerheelly

competent court, the applicant represented to the Respondents to set aside the order of dismissal on the ground that it has lost its basis and allow him service benefits from 13.3.1996, the date of dismissal and retiral benefits from 1.5.1996, the date of superannuation. But all his representations, vide annexures struck a dead end. The applicant is a low paid employee and is left with no means of subsistence consequent to his unjust dismissal from service. There are clear guidelines in Govt. of India, Ministry of Home Affairs, O.M. No.F.43/57/64-AVD(iii) dated 29.11.1966 as amended by G.I. C.S. (Dept. of Personnel) DM No.371/3/74-AVD III dt.19.9.1975 printed as G.I. Instruction No.8 in Swamy's compilation of CCS (CCA) Rules, 1965 and in Rule 117 and 130 of P & T Manual Vol. III on the action to be taken by the Respondents when appeal/revision against conviction succeeds. But the respondents have kept the matter in cold storage causing hardship and harassment to the applicant. Hence this application before the Hon'ble Tribunal.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

(1) It is respectfully submitted that the order of dismissal (impugned order) is based on the sole consideration that the conduct of the applicant, leading to his conviction on a criminal charge is such as to render his further retention in public service undesirable, vide para 9 of Annexure-1. Now that the said conviction was set aside by a competent court, the order of dismissal is left with no basis and hence it is liable to be set aside. This view is supported by their Lordships in C.J.C.V. Cheema Vs. Union of India and others (1986) 1 SLJ (CAT) 42. Their Lordships further observed that the provision in para (b) of the guidelines (referred to in the pre-para), that the punishment order should not be set aside in case it is decided to take

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C. Gaurbhatia

the matter to a still higher court is not in line either with the provisions of Rule 19(1) or those of Art. 311(2) proviso (a) of the Constitution of India and has therefore to be disregarded. This leaves to the Respondents to take action as provided either in para 2 or para 3 of the guidelines and in either case the order of dismissal has to be set aside.

(2) It is further submitted that the unjust dismissal order has taken away the means of subsistence from the applicant and reduced him to penury after serving the department for long years. Para 1 of the guidelines mentioned above is categorical that the order of penalty based on conviction cannot continue after the conviction itself is set aside. As held by their Lordships in C.J.C.V. Cheema Vs. Union of India and others (1986) 1 SLJ (CAT) 42 continuing the order of penalty even if the respondents choose to take the case to a higher court is not legal. So, once the order of dismissal is set aside, the respondents might start either fresh departmental action, or, if not, allow him the service and retiral benefits in the normal course. The applicant reached superannuation on 1.5.1976. So, either way the applicant will be eligible after the date of superannuation for provisional pension. It is therefore just and proper that the Respondents should have considered the granting of provisional pension till they acted as per the guidelines mentioned supra.

6. DETAILS OF THE REMEDIES EXHAUSTED:

The applicant declares that he has availed all the remedies available to him under the relevant service rules.

Where an appeal succeeds against conviction, the guidelines lays down a duty on the respondents to procure a copy

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C. Gaurhelthy

of the judgement immediately and take action as further directed.

Though the judgement was pronounced on 7.8.1996, the Respondents have not so far set aside the penalty. The applicant represented to the Respondents on 10-10-1996 and 30-10-1996 but there is no response. The order of dismissal unjustly imposed on the applicant left him with no means of subsistence. Hence there is no other alternative for the applicant except to approach the Hon'ble Tribunal to invoke its jurisdiction.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any other court or any other authority or any other Bench of this Tribunal, nor any such application, Writ Petition, or suit is pending before any of them.

8. RELIEF(S) SOUGHT:

In view of the facts mentioned in para (4) above, the applicants pray for the following relief(s):

It is respectfully prayed that the Hon'ble Tribunal may be pleased to set aside the impugned order No. INV/4-1/92/KW dated 13.3.1996 of IInd Respondent and direct the IInd Respondent to reinstate the applicant into service with all consequential benefits duly taking action under the guidelines contained in Govt. of India Instructions in CCS (CCA) Rules and as per Rule 117 & 130 P & T Volume III as deemed necessary, and to release the pensionary benefits with effect from 1.5.1996 i.e., from the date of superannuation, by fixing such time limit for compliance as the Hon'ble Tribunal deems proper and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may

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C. Ganeshetty

deem fit and proper in the circumstances of the case.

9. INTERIM ORDERS IF ANY PRAYED FOR:

Pending final decision on the application the applicants seek the following interim relief:

It is respectfully prayed that in view of the circumstances explained above, the Hon'ble Tribunal may be pleased to direct the respondents to make payment of provisional pension pending disposal of the O.A. as the applicant is put to lot of hardships financially for his sustenance and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and necessary in the circumstances of the case.

10. NOT APPLICABLE:

11. PARTICULARS OF THE BANK DRAFT/POSTAL ORDER filed in respect of the application fee:

1. P.O. No. 12 532538

2. Date: 23.12.1996

3. Fee: Rs.50/-

4. Name of the office of issue: Jubilee Hills S.O.

5. Name of the office payable at: G.P.O. Hyderabad.

12. LIST OF ENCLOSURES:

Sl.No. Details of the documents

Annexure

AS PER INDEX
VERIFICATION

I, C. Ganesh Chetty S/o V. Chengalvaraya Chetty, aged about 59 years, Postal Assistant (dismissed from service), Chittoor, Chittoor Dist. do hereby verify that the contents of paras 1 to 4 and 6 to 12 are true to the best of our knowledge and belief and para 5 believed to be true on legal advice.

Hyderabad.

Date: 23.12.1996

C. Ganesh Chetty

SIGNATURE OF THE APPLICANT

[Signature]
COUNSEL FOR THE APPLICANT.

contd.....

Recd on 18³/₉₆ at 11-30 AM
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DEPARTMENT OF POST : INDIA

OFFICE OF THE POSTMASTER GENERAL, KURNOOL REGION, KURNOOL-518005

Memo.No:INV/4-1/92/KW dated at K. nool-5 the 13-03-1996.

1. Sri C.Ganesh Chetty, LSG P.A, Chief of Division (under suspension) was convicted on a criminal charge and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/- (Rupees Two Thousand Only) and on default to undergo simple imprisonment for a further period of 4 months under section 409 of I.P.C. and section 13(1) (C) and (D) read with section 13(2) of the prevention of corruption act, 1988 and also sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- (Rupees One Thousand Only) and on default to undergo simple imprisonment for a further period of 3 months under section 420, 468 and 471 of I.P.C. and also sentenced to undergo rigorous imprisonment for a period of one year under section 477(A) of I.P.C. vide judgement dt. 1-12-93 in C.C.No.4 of 1997 in R.C.No.17(A) of 1992 in the court of special judge for C.B.I. cases, Hyderabad.

2. Consequent on the above conviction, the above said Sri C.Ganesh Chetty was served with a notice vide this office Memo. of even No. dated 4-8-95 directing him to attend before the undersigned on 21-8-95 at 10.30 hours for the purpose of enquiry as required under Rule-19 of CCS(COA) Rules, 1965. The above notice was delivered to the official on 8-8-95. But the official failed to attend the enquiry on 21-8-95 and the enquiry was held ex parte on 21-8-95.

3. Thereupon, taking into account the gravity of the criminal charges, he was given an opportunity to represent in writing against the proposed penalty of dismissal vide this office Memo. of even No. dated 23-8-95, while enclosing his enquiry report.

4. A representation dated 16-8-95 from Sri C.Ganesh Chetty was received in this office on 21-8-95, wherein he requested to adjourn the enquiry to be held on 21-8-95 on health grounds and enclosed Medical Certificate for 15 days from 16-8-95. This was brought to my notice on 24-8-95. It was also informed to the official vide Memo. of even No. dated 24-8-95 that he still felt that he had to be given opportunity of representing his case in connection with skeleton enquiry conducted on 21-8-95, he could submit his defence even at that stage while replying to the showcause notice dated 23-8-95 and that it would be taken into consideration by the undersigned before deciding his case.

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5. After receiving this office Memo. dated 23-8-95 and 24-8-95, the official submitted a representation dated 27-8-95 stating that though his request alongwith Medical Certificate requesting the adjournment of skeleton enquiry was received by the D.P.S. on 21-8-95, his request was not considered and without giving any opportunity to put-forth his views before the enquiry, a show-cause notice was issued to him proposing the penalty of dismissal which he said was against the Rules and principles of natural justice and pleaded to provide opportunity of personal hearing. The argument of the official is not factual. He was asked to submit his defence vide this office Memo. of even No. dated 24-8-95. Even afterwards, he was asked vide this office Memo. of even No. dated 31-8-95 to represent in person before the undersigned on any day convenient to him within ten days from the date of receipt of the letter cited supra. The official vide his representation dated 31-8-95 represented that he was sick, ill-unwell and bed-ridden and thus unable to make journey to Kurnool and attend the enquiry and in support of this, he submitted Medical Certificate for 15 days from 31-8-95. He also stated that he was unable to give his defence to the show-cause notice as he had to consult knowledgeable persons. He finally requested to permit him for skeleton enquiry after 14-9-95 or else to permit him to send his defence to the show-cause after 14-9-95. Sri C. Ganesh Chetty was again asked on 4-9-95 to intimate the date on which he would attend the personal hearing at Kurnool as desired by him in his letter dated 31-8-95 to the S.S.P. Os, Chittoor. Thereafter, the official vide his representation dated 7-9-95 requested the undersigned to treat the show-cause notice proposing dismissal in the Memo. dated 23-8-95 as cancelled, since the D.P.S. provided an opportunity for personal representation and any opinion on his culpability had to be based on the said personal representation and requested to intimate the date on which he had to attend the enquiry. He also requested for grant of advance of T.A. of Rs. 200/- which was sanctioned by the S.S.P, Chittoor.

6. In the meantime, the Hon'ble C.A.T., vide its order dated 8-9-95, in O.A.No.1017/95 filed by the said Sri C. Ganesh Chetty, passed an interim order restraining the D.P.S., Kurnool, from proceeding further under Rule-19 of CCS(CCA) Rules, 1965 till 31-12-95 if the Cr.A.No.130/94 or the file of A.P. High Court was not disposed off by then with the following further directions.

"But, if the said appeal is going to be disposed before 31-12-95 and if the conviction is going to be sustained, then of course, the proceeding under Rule-19 of CCS(CCA) Rules, 1965 can

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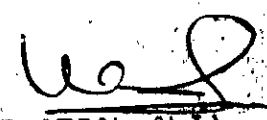
be proceeded with". The official also informed this office in his letter dated 9-9-95 that a stay was granted upto 31-12-95. Accordingly, further action under Rule-19 of CCS(CCA) 1965 was stopped till 31.12.95.

7. As the criminal appeal No.130/94 on the file of A.P.High Court filed by the official was not disposed off before 31-12-95 and the stay order issued by the Hon'ble C.A.T. restraining the D.P.S. Kurnool from proceeding further under Rule-19 of CCS(CCA) Rules, 1945 expired by 31-12-95, the undersigned, therefore, in this office letter dated 5-1-96, informed Sri C.Ganesh Chetty that the question of cancelling the notice dated 23-8-95 does not arise and there are no reasonable grounds to conduct a fresh skeleton enquiry. He was also further directed therein to immediately submit his defence to the show-cause notice vide para of this office Memo. of even No. dated 24-8-95 and that this would be considered by the undersigned before deciding the case and if he still desired to represent in person, he could attend before the D.P.S. with prior appointment any working day within 10 days of the receipt of the letter for personal hearing and that no further extension of time would be allowed. The letter was received by him on 8-1-96. Again, in this office letter of even No. dated 25-1-96, the S.S.P.Os, Chittoor was informed that the official had not attended before the undersigned for personal hearing, nor submitted any representation as directed in this office letter of even No. dated 5-1-96 and the S.S.P.Os was further instructed to remind the official and obtain a representation, if any, if he wished to submit and forward the same to his office. The S.S.P.Os in his letter FD/4-1/92-93 dated 9-2-96 informed that the official was reminded on 29-1-96 to submit his representation and that no reply had been received so far.

8. The said Sri C.Ganesh Chetty neither submitted any defence nor any reply to the show-cause notice dated 23-8-95 as desired by him in his representation dated 26-8-95 for personal hearing. He also failed to attend before the undersigned for personal hearing even though this opportunity was once again given to him vide this office letter of even No. dated 5-1-96. Therefore, it is concluded that he has no representation to make against the proposed penalty.

9. I have carefully gone through the entire record. It is concluded that the conduct of the said Sri C.Ganesh Chetty which has led to his conviction is such as to render his further retention in the public service undesirable. He has already served

With a notice about the proposed punishment of his dismissal from service on 23-8-95. He did not choose to make any representation against the said proposal. Hence, I am forced to decide the case ex-parte. Therefore, now, I, Md. Afzal Ali, Director of Postal Services, Kurnool, in exercise of powers conferred by Rule 19(i) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby order that Sri Ganesh Chetty, LSG P.A., Chittoor Division be dismissed from service with immediate effect.



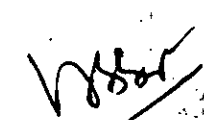
(MD AFZAL ALI)
Director of Postal Services,
O/o P.M.G., Kurnool-518 005.

To


✓ Sri Ganesh Chetty,
LSG PA (under suspension),
Chittoor HO at 5-174,
Bazar Street, Santhapet,
CHITTOOR - 517 004.
(through the SSPOs, Chittoor).

A copy of this memo. is issued to:

- 1 & 2. The Sr. Supd. of PO Chittoor Division, Chittoor.
- 3 & 4. The Postmaster, Chittoor HO (through the SSPOs, Chittoor).
5. Office copy.
6. File No. ST-IV/MR-2/1-2.
- 7 & 8. Spare.



(H.S. BASTRY)
Asst. Director (Staff),
O/o P.M.G., Kurnool-5.

T.C.


AN II

In the High Court of Judicature, Andhra Pradesh,
at Hyderabad.

Wednesday, the Seventh day of August

One thousand nine hundred and ninety Six.

PRESENT:

The Hon'ble Mr. Justice RAMESH MADHAV BAPAT

and

~~The Hon'ble Mr. Justice~~

CRIMINAL APPEAL No. 130 OF 1994.

Criminal Appl u/s. 374 Cr.P.C. f/w Sec.27 of P.C.Act. C.

against the Judgement dated 31-12-93 in C.C. No. 4 of 1993.

on the file of the Court of the Special Judge for C.B.I. Cases,
Hyderabad.

C.Ganesh Chetty

vs.

—Appellant /
(Accused)

State of Andhra Pradesh,
rep. by C.B.I./SPE. Hyderabad

Respondent /
Complainant

For the Appellant: Mr. C. Padmanabha Reddy
~~C. Praveen Kumar~~ { Advocate

For the Respondent: Mr. M.R.Reddy, Standing Counsel for C.B.I.

The Court Delivered the following Judgment.

four months of the offence punishable under section 409 I.P.C. and Sections 13 (1) (c) and (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988. The accused was also convicted and sentenced to suffer R.I. for one year and to pay fine of Rs.1000/- in default to suffer S.I. for three months of the offences punishable under sections 420, 468 and 471 I.P.C. The accused was also further convicted and sentenced to suffer R.I. for one year of the offence punishable under section 477-A I.P.C. The substantive sentences of imprisonment were made to run concurrently.

Being aggrieved by the aforesaid order of conviction and sentence, the accused-appellant herein has filed the present appeal.

The learned counsel Mr.C.Padmanabha Reddy submitted at the Bar that at the time of trial, the accused had taken a plea that P.W.12, who is a Senior Division, Superintendent of Post Offices, Chittoor, was not a competent authority to accord ~~the~~ sanction to prosecute

(14)

JUDGMENT IN CRL.APPEAL NO.130 of 1994

The sole accused in C.C.No.4 of 1993 was tried by the Special Judge for C.B.I.Cases, Hyderabad, on different charges. The first charge against the accused was under section 409 I.P.C. The 2nd charge against the accused was under section 420 I.P.C. The 3rd charge against the accused was under section 468 I.P.C. The 4th charge against the accused was under section 471 I.P.C. The 5th charge against the accused was under section 477-A I.P.C. The 6th charge against the accused was under section 13 (1) (c) read with Section 13 (2) of the Prevention of Corruption Act, 1988 and the 7th charge against the accused was under section 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988.

It appears from the record that on hearing the prosecution case and the defence of the accused, the accused was found guilty of all

Therefore,
~~xx~~ the charges. /The accused was convicted and sentenced to suffer R.I. for two years and to pay fine of Rs.2000/- in default to undergo S.I. for

the Senior Superintendent of Post Offices, Chittoor Division, that he was not competent to give the sanction to prosecute the accused-appellant herein. The order dated 22--3--1994 was set aside which was challenged before the said Tribunal. Therefore, the Director of Postal Services, Kurnool Region, Kurnool, issued proceedings against the appellant herein and ultimately he was removed from service.

With this factual position on record, this Court has no hesitation in holding that P.W.12 was not a competent authority to give the sanction. As a matter of fact, such evidence has not been brought on record. Therefore, this Court is inclined to set aside the order of conviction and sentence recorded against the accused-appellant herein and it is hereby set aside with a direction to the learned Sol.Judge for C.B.I. cases to summon the Director of Postal Services, Kurnool Region, Kurnool and record his evidence on the point of sanction and also ascertain whether the senior

the accused-appellant herein. However, the said contention raised by the accused-appellant herein was negatived by the learned Special Judge.

The learned counsel for the appellant herein drew my attention to O.A.No.379 of 1994 filed before the Central Administrative Tribunal, Hyderabad. The said O.A., was filed by the accused-appellant herein being aggrieved by the order issued against him by P.W.12 dismissing him from service. During the course of hearing of O.A.No.379 of 1994, P.W.12 herein as a party respondent in the aforesaid proceedings, admitted that he was not the competent authority to accord sanction to prosecute the accused-appellant herein. With these two different versions of P.W.12 on record, the learned counsel for the appellant herein submitted that a great injustice has been done to the appellant and therefore the matter be remanded to the lower court.

The learned counsel Mr.C.Padmanabha Reddy submitted at the Bar that O.A.No.379 of 1994 was allowed because of the admission given by P.W.12,

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1. The Spt Judge for CBO cases, Hyderabad. (with Ramesh)

2. The Inspector of Police CBI Hyderabad

3. The Director General of Police ^{AP} Hyderabad.

4. The Director General of Prisons ^{AP} Hyderabad.

5. The Deputy Inspector General (Crimes), Hyderabad.

6. ~~Sr. Superintendent of Police~~ ~~Officer Chittoor~~ ~~Dinagan Chittoor~~
~~Two C.C.s to the Public Prosecutor, Advocate-General, High Court~~
~~of A.P., Hyderabad (OUT)~~

7. One spare copy.

8. The Director of postal services,
Kurnool Region, Kurnool.

CD NO 11584 / 96

CRD A NO. 130 / 96

C. Prawn Kumar.

DATE 18.9.96

12-06

7/10/96

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M

The High Court of Andhra Pradesh	
HYDERABAD.	
C. D. No	11584 of 1996
Application made	8-8-1996
Application returned	19
Application represented	19
Summons called for	17-9-1996
Summons paid for	18-9-1996
Ad. Sum. called for	19
Ad. Sum. paid for	19
Copy received	20-9-1996
Copy delivered	19
Section Officer	

/ 5 /

Superintendent of Post Offices is competent to accord sanction to prosecute the accused-appellant herein and depending upon the evidence which is likely to be led by both sides, the learned Special Judge may proceed to write a judgment afresh.

With this direction, this Criminal Appeal is allowed and the matter is remanded to the lower court.

SJB/

BH A E & W
Joint
ASSISTANT REGISTRAR
High Court of Andhra Pradesh
HYDERABAD.

TRUE COPY

SECTION OFFICER
CURRENT SECTION
HIGH COURT OF A.P.
HYDERABAD.

M A Murtuza Ali
24/9/96
SUPERINTENDENT
COPYIST DEPARTMENT
HIGH COURT OF A.P.
HYDERABAD

4. The learned judge should have held that there was no valid sanction to prosecute the accused.

5. The learned judge failed to see that the sanction order Ex.P.58 given by P.W.12 was invalid as P.W.12 was not competent to remove the accused from service.

6. The learned judge should have seen that though the accused belong to lower selection Grade cadre material time, was appointed by the Direction of Postal services and therefore, the director of postal services has to accord sanction and not P.W.2.

7. The learned judge failed to appreciate the evidence on record with reference to postal Rules and came to wrong conclusion with regard to the deposit and withdrawal of monies in the accounts of the six depositors P.Ws. 6 to 11 examined by the prosecution.

8. The learned judge erred in attributing the withdrawals from the S.B. Accounts of P.Ws. 7, 8, 10 and 11 to the contrary to the evidence on record and in the absence of any opinion of the handwriting expert P.W.20.

9. The learned judge should have seen that there is no positive evidence to connect the accused with the T.D. Accounts of P.W.6 and 9.

10. The learned judge erred in placing reliance on the highly interested, discrepant and self-serving statements of P.Ws. 6 to 11.

11. The learned judge failed to appreciate the facts relating to the requirement of Sub-Office daily account statement for conclusively proving non-accounting for the monies by the accused.

Memorandum of Criminal Appeal.

(Under Sec. 374Cr; P.C.R/w
Section 27 of P.C. Act.)

In the Court of the Special Judge for C.B.I. Cases,
Hyderabad.

C.C.No. 4 of 1993.

In the High Court of Judicature Andhra Pradesh at
Hyderabad.

Cri.A.No. 130 of 1994.

C. Ganesh Chetty,
S/o Sri V. Chengaivaraya Chetty,
H.No.5-194, Bazar Street,
Santhapet, Chittoor.

.. Accused/ Appellant.

Vs.

State of A.P. represented by
C.B.I./SPE, Hyderabad.

.. Complainant/Respondent.

The address for service of all notices and processes on the
above named appellant is that of his counsel Sri C. Praveen
Kumar, Advocate, No.6, Law Chambers, High Court, Hyderabad.

The above named appellant begs to present this memorandum
of grounds of criminal appeal to this Hon'ble Court against
the judgment of the Special Judge for C.B.I. Cases, Hyderabad
in C.C.No. 4 of 1993 dated the 31st day of December, 1993 for
the following among other Grounds:-

1. The judgment of the learned Special judge is contrary
to law, weight of evidence and probabilities of the case.

2. The learned judge erred in convicting the appellant
under Sections 408, 420, 468, 471 and 477-A I.P.C. and
section 13(1) (c) and (d) R/w Sec. 13(2) of the Prevention
of Corruption Act.

3. The learned judge failed to see that the ingredients
to constitute the said offences are not proved by any legal
and reliable evidence.

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Sub-post, Masrco. ch Hor
(North)

1988 to June 92

HYDERABAD DISTRICT.

HIGH COURT, HYDERABAD.

21 witnesses exam

Crl.A.No. of 1994.

DWS to 8 examined outside

Agst.

C.C.No. 41 of 1993.

Court of the Spl. Judge for
BI Cases, Hyderabad.

0/

+ Rs 2000/-

13 (1) (c) and (d) of 15

Memorandum of Grounds.

Sec 13(2) p.c.n

one pay fine

Rs 1000/- 1/10 d. SI for

3 months

U/S 420, 468, 471.

One Yen of 477 - A.I.R

Total fine of Rs 3000/-

his

Sri C. Praveen Kumar.

Counsel for the Applt.

CONFIDENTIAL, JUDGE'S COPY, DO NOT
CIRCULATE

- 3 -

APPEAL NO. 1000 OF 1994

12. The learned judge erred in relying upon the alleged confessional statement of the accused Ex.P.107 given to P.W.5.

13. The learned judge should have seen that the circumstances under which it was obtained clearly indicate that it was obtained under duress and it was not a voluntary statement.

14. The learned judge has not given any valid and convincing reasons for not accepting the evidence of D.Ws. 1 to 3.

15. The other reasons given by the learned judge are unsustainable.

16. In any event, the sentences are unduly severe.

Hyderabad,

D/ 7- 2-1994.

Counsel for the Appellant.

RECORDED
REV. 2000/05/10
SILVA 1001 100 2000 000
APPEAL NO. 1000 OF 1994

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By Regd. Post ACK Due

From,
C. Ganesh Chetty,
EX. LSG. P.A. Chittoor H.O.
5-194th Street, Santnapet,
CHITTOOR -517004. (A.P)

To
The Director of Postal Services,
Kurnool Region
KURNOOL -518005.

Dated at Chittoor the 30 Oct. 1996.

Sub : Dismissal order of C. Ganesh Chetty,
LSG. P.A. Chittoor H.O. under Rule 19(1)
due to conviction by VBI Court- High Court
set aside conviction on appeal- orders
of Re-instatement - Requested.

Ref : 1) DPS Kurnool Region Kurnool memo No.
Inv/4-1/92/KW dated 13-3-96.

2) My representation dated 10-10-96
received by your office on 14-10-96.

--19001--

Sir,

In my representation dated 10-10-96 I have
submitted that I was dismissed from service under Rule 19 (1)
of CCS (CCA) Rules 1965 on the ground that I was convicted and
sentenced to undergo RI by the CBI Court and since the A.P.
High Court set aside the above conviction on my appeal in a
Judgment dated 7-8-96 and requested to reinstate me
into the service retrospectively from the date of my dismi-
ssal allowing me the pay and allowances upto the date of my
superannuation and thereafter the pension and retiral benefits.
Your kind orders are still awaited.

As I am hard pressed for my survival because of my
dismissal I humbly request that my request may kindly be
considered sympathetically and early orders passed.

Thanking you sir,

Yours faithfully,

C. Ganesh Chetty
(C.GANESH CHETTY)

Copy submitted to the Postmaster General, Kurnool Region
Kurnool for kind information.

C. Ganesh Chetty
(C.GANESH CHETTY)

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BY REGD. POST ACK. DUE

From:

C. Ganesh Chetty,
Ex. P.A., Chittoor H.O.,
5-194, Bazar Street,
Santhapet, Chittoor - 4,
PIN - 517 001.

To:

The Director of Postal Services,
Kurnool Region,
KURNOOL.

Dated at Chittoor the 10-10-1996.

Sub:- Dismissal Order of C. Ganesh Chetty L.S.G.
P.A. Chittoor H.O. under Rule 19 (1) due
to Conviction by CBI Court - High Court
set aside conviction on appeal - Orders of
Reinstatement - Requested.

Ref:- D.P.S. Kurnool Region, Kurnool Memo.No. Inv/
4-1/92/K.W. Dated 13-03-1996.

Sir,

I beg to submit the following representation for
merciful consideration and orders.

I was dismissed from Service in your Memo.No. Inv/4-1/92/
K.W. dated 13-03-1996 under Rule 19 (1) of CCS (CCA) Rules 1965
on the ground that the special Judge for CBI Cases, Hyderabad
convicted and sentenced me to undergo R.I. for a period of 2
years on different counts. I preferred an appeal in the High
Court of A.P. under CR.A-130/94. The Honourable High Court has
since delivered judgement on 07-08-1996 setting aside the
conviction ordered by the Lower Court. As my dismissal from
service is wholly based on the conviction by the Criminal Court
and since the said conviction has been set aside, I have to be
Reinstated into the Service retrospectively from the date of
dismissal, allowing me the pay and allowances up to the date my
superannuation as though I continued in service and thereafter
the pension and other retiral benefits.

A copy of the orders of High Court are submitted for
your kind information.

I therefore request you Sir kindly to consider my
request and pass early orders as I am hard pressed for my
survival because of my dismissal.

Yours faithfully,

C. Ganesh Chetty
(C. GANESH CHETTY),

Copy submitted to the Postmaster - General,
Kurnool Region, Kurnool for kind information.

C. Ganesh Chetty
(C. GANESH CHETTY),

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