

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 502/97

Date of Order: 8.3.99

BETWEEN :

P.Baswaraju

.. Applicant.

AND

1. Sub Divisional Inspector (Postal),
Mahaboobnagar (West) Sub Division.
2. Superintendent of Post Offices,
Mahaboobnagar Dist, Mahaboobnagar.
3. Post Master General, Hyderabad,
City Region, Abids,
Hyderabad.
4. Sub-Post Master, Kodangal,
Mahaboobnagar.

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.M.TirumalaRao

Counsel for the Respondents

.. Mr.V.Vinod Kumar

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CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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O R D E R

X As per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.) X

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On 25.1.99 when this OA was posted for hearing the learned counsel for the applicant remained absent. We heard Mr.V.Vinod Kumar, learned standing counsel for the respondents. However, subsequently the learned counsel for the applicant submitted written brief. We have taken note of the contentions raised by the learned counsel for the applicant in the written brief.

2. The applicant herein was an ED Messenger working at Kodangal Sub Office in Mahaboobnagar District. He has challenged the order dated 30.11.94 passed by R-1 removing him ^{from} service on proved charge of grave misconduct and desertion of duties. His appeal against the said order of removal came to be rejected by R-2 by order dated 10.7.95. His further revision application to R-3 against the punishment of removal from service was also rejected by R-3 by order dated 18.6.96.

3. The brief facts of the case are as under :-

During 1992-93 the applicant was working as ED Messenger at Kodangal Sub Office in Mahaboob nagar District. In that sub office one Shri Mohd. Abdul Hannan was working as Sub-Post Master.

4. On 1.10.92 the said M.A.Hannan submitted a petition to R-1 alleging that on 1.10.92 at or about 4.30 pm while he was going at Vadderagalli (near bus stand, Kodangal) along with Sri Hanumaiah, a Group-D official of the said office, the applicant appeared before him, caught hold of the collar of the shirt by

his left hand and beat him with chappal on his head abusing him "lanja koduka" that Hanumaiah who was accompanying him attempted to intervene, that the applicant posed a threat to him, that therefore Hanumaiah kept quite and one Sri Balappa who was working in the same post office separated him from the applicant, that then altercation as well as fighting took place between D.Balappa and the applicant, and that he ran from that place to protect himself, as he felt that there was a danger to his life.

5. On 3.10.92 the said M.A.Hannan filed a complaint to the Sub-Inspector of Police, Kodangal containing similar averments therein. It is stated that the complaint dated 1.10.92 which was submitted to the superior authorities was lodged with the local police that at the instance of the Head Constable of the police station the date was altered from 1.10.92 to 3.10.92. 2.10.92 was a general holiday.

6. On receipt of this complaint, the R-1 conducted the preliminary enquiry. During the preliminary enquiry R-1 asked the reaction of the applicant to the complaint dated 1.10.92 filed by Sri M.A.Hannan. It appears on 3.10.92 R-1 contacted the applicant at Kodangal and asked the reaction of the applicant dated 1.10.92. Then the applicant refused to give any statement on that day.

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7. The applicant was put off from duty from the afternoon of 3.10.92.

8. Thereafter R-1 by his proceedings No.PF/ED Messenger/KDL under Rule 8 of the P&T EDA (Conduct and Service) Rules 1964/ dated 15.2.93 issued a charge memo/ The applicant has not furnished the charge memo along with the OA. The misconduct alleged against him reads as below :-

Article I : Sri P.Basava Raj while working as ED Messenger at Kodangal SO manhandled Sri M.A.Hannan-I;SPM Kodangal S.O. on 1.10.92 and thereby failed to maintain absolute integrity and devotion to duty at all times as required by him under rule 17 of EDAs (C&S) Rules 1964.

Article II: Sri P.Basava Raj; ED Messenger Kodangal SO deserted duty w.e.f. 3.10.92 and thereby failed to maintain absolute integrity and devotion to duty at all times as required by him under rule 17 of EDAs (C&S) Rules 1964"

9. The applicant denied the charges.^A Detailed enquiry was conducted by R-1. The enquiry officer submitted his report dated 26.7.94. The enquiry officer recorded the findings of the charges levelled against the accused were proved.

10. A copy of the report of the enquiry officer was furnished to the applicant. The applicant submitted his representation dated 27.9.94 against the findings of the enquiry officer.

11. R-1 after considering the explanation of the applicant the enquiry report and the records agreed with the findings

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of the enquiry officer and by his proceedings of even No. dated 30.11.94 imposed the penalty of removal from service on the applicant with immediate effect.

12. Against the said order of punishment the applicant submitted an appeal dated 28.2.95 to R-2. The R-2 by his order dated 10.7.95 rejected the appeal and confirmed the punishment.

13. The applicant against the order of the appellate authority submitted a revision petition dated 17.8.95 to R-3. R-3 by his proceedings No.ST/12-4/6/95 dated 28.5.96/ 18.6.96 rejected the revision petition and confirmed the punishment.

14. The applicant has filed this OA for the following reliefs :-

To call for the records relating to and connected with the impugned order Memo No.ST/12-4/6/95, dated 28 .5.96/18.6.96. In view of the facts mentioned the applicant humbly prays that this Hon'ble Tribunal may be pleased to set aside the order of his removal vide No.PF/ED Messenger/Kodangal, dated 30.11.94 As case of no evidence and pass such other order or orders as this Hon'ble Tribunal deems fit and proper in the interest of justice.

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

- (a) There is inconsistency in the oral evidence.
- (b) There was manipulation of records by R-4.

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(c) The date of incident reported to the departmental authorities is 1.10.92 whereas the complaint was lodged with the local police on 3.10.92. The complaint lodged to the police gave an impression that the incident had taken place on 3.10.92.

(d) The alleged time of the incident is during the office hours. That means to say the R-4 could not have left the office and be at Vadderagalli as alleged by him.

(e) Non examination of the police official who investigated into the case has vitiated the proceedings.

(f) Fabrication of oral evidence by inducement to a witness, namely, D.Balaiah.

(g) The allegations made by Sri M.A.Hannan was purely criminal in nature and the respondent authority held preliminary enquiry and imposed the punishment on him. When Sri M.A.Hannan had filed a complaint with the Sub-Inspector of Police, Kodangal on 3.10.92 the respondent authority ought to have waited till the completion of the investigation and the final verdict by a competent court of law.

(h) Rule 17 of the Rules 1964 does not include the unbecoming act of a ED staff. Therefore any act alleged to have committed by him does not attract the Rule 17 of the Rules 1964. That ED staff is not a government servant. Since Rule 17 does not include an act of the staff of

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becoming of a government servant, the respondent authority could not have taken any proceedings against him and should have allowed the complaint dated 3.10.92 of Sri M.A.Hannan to have the usual course according to law.

(i) Even if the alleged assault is held to be proved the punishment of removal him from service was not at all justified. In support of his contention he relies upon the observations made by the Allahabad Bench of this Tribunal in the case of Badrinatu Viswakarma Vs. Union of India (1993 ATR (1) CAT 49) ^{in the case of B.N. vs.} and (1993 (1) ATJ 147). Relying upon those decisions the applicant further contends that assaulting any public servant though is a form of indiscipline it does not involve any moral turpitude justifying compulsory retirement. (In the sense assailing the removal of the applicant in this case), and

(j) The applicant submits that he had not deserted the duties and he was put off from the duties from the afternoon of 3.10.92 and therefore the charge levelled against him is baseless. He submits that had he not been put off from duty he would have performed the duties of the Sub-Post office.

16. The respondents have filed their reply stating that on the basis of the complaint dated 1.10.92 of Sri M.A.Hannan a preliminary enquiry was conducted by the respondents that he was satisfied about the misconduct and therefore he initiated disciplinary proceedings against the applicant that in the course of the enquiry sufficient opportunity was given to the



applicant and that there are ^{no} justifiable grounds to interfere with the impugned orders. Thus they submit that the OA is liable to be dismissed.

17. The first contention that requires to be considered is whether the assaulting or dishonouring Sri M.A.Hannan on the evening of 1.10.92 attract the provisions of ^{the} ED Staff (Service and Conditions) Rules 1964.

18. The word misconduct has not at all been defined under the Rules 1964.

19. In the case of Union of India Vs. K.K. Dhawan reported in AIR 1993 SC 1478 the Hon'ble Supreme Court has stated the circumstances under which a public servant can be proceeded with in the disciplinary proceedings. In para-28 the Hon'ble Supreme Court has observed as under :-

"Thus, we conclude that the disciplinary action can be taken in the following cases :

i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.

ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;

iii) If he has acted in a manner which is unbecoming of a government servant;

iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

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v) if he had acted in order to unduly favour a party;

vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great".

20. In the case of A.K. Singh Vs. Union of India Bangalore Bench of this Tribunal has observed as follows in para-27 & 31 :

"But then the question whether the conduct of a government servant is unbecoming of his character and role of a government servant must depend on the facts of each case. We do not think that there can possibly be any categorisation of conduct encased within any particular rule in question. Just like Ceaser's wife was expected to be above board, every government servant should be above suspicion and we think should not be involved in dalliance of an amoral nature or tangled in romantic relation particularly if he is already married. But then we are told by Dr.Nagaraja that our own views are without justification in the light of the judgement of the Constitution Bench of the Supreme Court in the case of A.L. Kalra v. Project and Equipment Corporation of India Ltd. That was a case in which punishment imposed on the appellant Kalra for having committed a misconduct punishable under Rule 4(i) and (iii) and Rule 5(5) of the PEC Employees' (Conduct, Discipline and Appeal) Rules and Rule 10(1)(c)(i) of PEC Housing Building Advance (Grant and Recovery) Rules was successfully canvased. Therein, it was argued that where penal consequences ensue apropos misconduct alleged against an employee, it is obligatory on the part of the employer to specify and if necessary to pinpoint the issue with accuracy so that there could be no ex post facto interpretation of some incident camouflaged as misconduct. Accepting the argument, their Lordships held:

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"Where one of the rules of a public sector company relating to conduct and discipline of its employees provided for maintaining 'absolute integrity' and to 'do nothing what is unbecoming of a public servant'.

"...the rule was vague and of a general nature which is unbecoming of a public servant may vary with individuals and expose employees to vagaries of subjective evaluation. What in a given context would constitute conduct unbecoming of a public servant to be treated as misconduct would expose a grey area not amenable to objective evaluation. Failure to keep to high standard of moral, ethical or decorous behaviour befitting an officer of the company by itself cannot constitute misconduct unless the specific conduct falls in any of the misconduct specifically enumerated in the conduct and discipline rules".

We notice the earlier decision rendered in Kalra case was not referred to in this case nor any argument advanced to contend there must be a specific species of misconduct and in the absence of such species, it was in vain to rely simply on the genre couched in very wide language. We thus have the two judgements of the Apex Court on the point but then in such a situation we are bound to follow the later judgement in Dhawan case referred to (supra). We, therefore, follow the judgement in Dhawan case and conclude this controversy. Even otherwise, we should say that the charge also satisfies the species element since it lays emphasis on the unsavoury conduct of the applicant being involved with the girl Sunita Rani for over a period of one year. The charge is buttressed by the appended imputations indicating that as a result of his involvement with that girl the latter conceived twice from the officer and had to undergo abortions. To insist, having sexual



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intercourse with the girl as a result of which she had illegally conceived from the applicant, the same should have been listed as a case of specific misconduct in the CCS, Conduct Rules, is to give credence to form over substance. It will be humanly impossible to categorise all conduct unbecoming of a government servant as pointed by the court in Dhawan case. The question is whether in the facts and circumstances of the case, the conduct of the officer would amount to misconduct blameable under law. We are, however, left with no doubt in our mind that the officer in question taking advantage of the young girl's innocence had involved her in sexual intimacy and that had led to the young girl becoming an unwed mother. We do not know how to brand such infamous conduct of the officer as other than unbecoming/

of a government servant. This point also fails and is rejected. 21. In the case of Sri Kanniappan v. Director, Jawaharlal

Institute of Post G.M.E. and others (1990 (1) SLJ 385)

Madras of this Tribunal has observed as under :-

"In private life as well as a civil servant is expected to maintain certain standards, without which there cannot be a smooth and healthy administration. So much so even with respect to conduct or behaviour in private life, unconnected with the discharge of the official duties, if the matter is duly brought to the notice of the Competent Disciplinary Authority, such authority is justified in looking into it and in initiating disciplinary proceedings if a prima facie case is established as a result of the preliminary investigation. Even in a case where the alleged conduct or behaviour amounts to a criminal offence the Disciplinary Authority can exercise this power. However, where the imputation is with respect to conduct, totally unconnected with the discharge of the official duties, but it relates purely to a criminal offence against a citizen, just because the matter is brought to the attention of the Disciplinary Authority it is not justified in straight away initiating disciplinary proceedings, without even ascertaining whether the criminal law has been set in motion by the affected citizen. Such a case cannot be equated with one

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where the conduct of the civil servant is connected with the discharge of his official duties and for which there is scope both for the initiation of the criminal proceedings at the instance of the employer himself and for starting disciplinary proceedings.

The alleged misconduct is totally unconnected with the discharge of the official duties of the applicant: the JIPMER is concerned with the alleged incident only because the applicant happens to be a peon therein. The imputation relates to a criminal offence falling within the Indian Penal Code. The complaint before the Administrative Officer is not an ordinary citizen but a custodian of law and order who well knows the criminal implication of the act. Departmental proceedings are to be initiated against a civil servant in respect of his conduct only after arriving at a conclusion that there are good and sufficient reasons for doing so. The absence of criminal proceedings relating to the alleged conduct should have been taken note of by the Disciplinary Authority before the initiation of the proceedings. No doubt, in a proper case where the alleged conduct though it amounts to a criminal offence, even before the initiation of criminal proceedings departmental proceedings can be commenced. This, on the face of it, is not a case of that nature. In the circumstances of this case we have the least hesitation to hold that the initiation of the disciplinary proceedings itself was totally unjustified. A perusal of the Report of the Inquiry Officer reveals that the finding arrived at by him is not based upon legal evidence. We cannot do better than extract the conclusion of the Inquiry Officer in his own words :

"Under the circumstances, it is felt that some untoward incident happened on that particular day involving Shri C. Kanniappan and affecting Shri Thulasimalai. After analysing the statements given by the various witnesses and documents it is felt that Shri Kanniappan had stolen money from Shri Thulasimalai. Since the incident had happened outside of intoxication it cannot be proved beyond doubt and only the circumstantial evidence suggest that he had stolen the money from Shri Thulasimalai".



26. In the case of Jagdeo Raut v. Union of India reported in 1997 (36) ATC 54, the Jodhpur Bench of this Tribunal has considered the misconduct of a public servant assaulting his superior officer in the residential colony and assaulting a Group-D employee in the public place on the next day. The Jodhpur Bench of this Tribunal relying upon the observations made by the Hon'ble Supreme Court in the case of S. Govinda Menon v. Union of India reported in AIR 1967 SC 1274 observed as under :-

The next question which has to be evaluated is whether the act of the applicant in abusing his senior officer though in a public place (in this case in the government residential colony) constitutes a 'misconduct' within the parameters of Rule 3(1) of the CCS (Conduct) Rules, 1964. In this regard Rule 3(1) of the CCS (Conduct) Rules reads as under—

"3. General— (1) Every government servant shall at all times
(i) maintain absolute integrity;
(ii) maintain devotion to duty, and
(iii) do nothing which is unbecoming of a government servant."

From a perusal of this provision, it is clear that the Conduct Rules require that every government servant shall at all times (emphasis supplied) not only maintain absolute integrity and devotion to duty but also do nothing which is unbecoming of a government servant. It is true that though the term 'misconduct' has not been defined in any of the Conduct Rules or other enactments yet in its generic sense, it means "to conduct amiss, to mismanage, wrong or improper conduct; bad behaviour, unlawful behaviour or



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conduct". Moreover, the phrases viz.; at all times and do nothing which is unbecoming of a government servant" have to be understood in a wider sense and not in a restricted manner. It is also pertinent to note that after an appointment of an individual in government service he as a government servant is clothed with a specific status. He has a protection under Section 197 of the Code of Criminal Procedure for committing any act or commission in the discharge of his official duties, or with an act or omission which is not easily separable from his official action. The government servant is constituent unit of the State in which he is employed as a servant. By virtue of his status as a government servant, it is a statutory expectation that every government servant would behave at all times in a manner which does not tarnish the image of the Government or his master and that too not only within the discharge of his regulated duty hours but even outside it.

Looking at it from a different angle, every individual government servant is a mirror through which the public at large looks to find out the true picture or image of the Government which is reflected through the government servant, in the respective of the parameters of sphere in which he operates. The State and for that matter the Government would never encourage or tolerate any behaviour of a government servant which could be called as unbecoming of a government servant and expect that all times he observed a righteous behaviour/conduct. To us, it appears that it is with this background that the legislature framed Rule 3(1) of the CCS (CCA) Rules, 1964 by using two phrases, i.e. 'at all times' and 'do nothing which is unbecoming of a government servant'.

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23. Having regard to the principles enunciated by the Hon'ble Supreme Court and also the other Benchrs of this Tribunal in the cases cited, we are of the opinion that the alleged misconduct of the applicant assaulting M.A.Hannan on the evening on 1.10.92 in the public place near the bus stand, Kodangal, certainly comes within the term "mis-conduct" under the service rules.

24. Disciplinary authority is not expected to wait till the investigation in the criminal case and the final verdict by the competent court in the criminal case is over. It is human knowledge that investigation by the police may take a considerable time and even the criminal trial may go on for years together. The object of initiating disciplinary proceedings is only to ascertain the conduct of the delinquent employee and to take a decision whether the delinquent employee is fit to continue in service or not. If the disciplinary authority has to wait till the conclusion of the investigation and also the criminal trial then it may not at all be possible for the disciplinary authority to initiate the disciplinary proceedings. If really the applicant felt that his defence would be jeopardised in conducting the disciplinary proceedings before completion of the investigation by the police into the complaint by the M.A.Hannan dated 3.10.92 he should have approached the competent authority or the other authority praying to postpone the disciplinary proceedings till the outcome of the investigation by the local police. The



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disciplinary authority is not expected to wait till the conclusion of the criminal trial. For this we may rely upon the observations made by the Hon'ble Supreme Court in the case of State of Rajasthan v. B.K.Meenan reported in AIR 1997 SC 13. Therefore in our opinion the initiation of the disciplinary proceedings against the applicant as regards his misconduct on 1.10.92 is well within the powers of the disciplinary authority.

25. The applicant contends that there was inconsistency in the oral evidence. The scope of judicial review by the Court of Tribunal in the disciplinary proceedings is very much limited. The Court or Tribunal cannot take responsibility to reappreciate the evidence. It is for the disciplinary authority to take into consideration the material collected by the enquiry authority and ascertain, analyse and come to the conclusion having regard to the probabilities of the case whether the misconduct levelled against the applicant is proved or not. For this we rely upon the decision of the Hon'ble Supreme Court in the case of Government of Tamilnadu v. A.Rajapandyan reported in AIR 1995 SC 561.

26. The applicant submits that the complaint issued to the departmental authorities indicated that the incident had taken place on the evening of 1.10.92 whereas the complaint filed with the local police on 3.10.92 gave an indication that the incident had taken place on 3.10.92. As already submitted



Sri M.A. Hannan
~~the applicant~~ had lodged the complaint dated 1.10.92 with the police on 3.10.92. 2.10.92 being a general holiday, it appears that the complaint approached the police on 3.10.92. Sri M.A. Hannan has explained that he changed the date 1.10.92 written at the top as 3.10.92 at the instance of the Head Constable of the Police Station, Krishna District. Therefore it cannot be said that the police complaint has been lodged is different from the one submitted to the departmental authority. There is no substance to contend that the incident of assault had taken place on the evening of 3.10.92. On 3.10.92 (afternoon) the applicant was put off from duty. It cannot be his version that the incident had taken place on 3.10.92. Shri M.A. Hannan had only changed the date from 1.10.92 to 3.10.92, the other contents of the complaint remained the same. This variation is not material to come to the conclusion that Sri M.A. Hannan has filed a false complaint either with the departmental authorities or with the local police.

27. The applicant has stated that non examination of the police official has vitiated the enquiry. In the Annexure to the charge memo no police official has been cited as a witness. Only six witnesses have been cited in support of the charges. If really the applicant desired to examine any police official in support of his defence, the applicant was at liberty to summon the police official. In the absence of any such police

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official being cited as a witness in Annexure to the charge memo we find no reasons to accept the contention of the applicant that non examination of the police official in the enquiry has vitiated the disciplinary proceedings.

28. It is stated that Balappa's statement has been obtained by inducement. In order to support this contention the applicant states that after he was put off from duty a relative of Balappa was appointed in his place. The authority who was competent to appoint a person in place of the applicant was not cited in the disciplinary proceedings. It is not the case of the applicant that either the enquiry authority or the disciplinary authority had the power to appoint a person in place of the applicant. Therefore, that cannot be taken as a ground to vitiate the disciplinary proceedings.

29. The applicant made much of Rule 17 of the Rules 1964. He attempts to contend that Rule 17 of the Rules 1964 does not contain anything as a misconduct of unbecoming of a ED staff. If such a contention is accepted then any ED staff can assault or commit any criminal offence and take shelter under Rule 17 to say that his alleged misconduct does not come under Rule 17 of the Rules 1964. Infact, the ED staff are governed by the CCS (CCA) Rules 1965. Rule-3 of the CCS (CCA) Rules are no doubt applicable to ED staff also. Therefore it cannot be said that the act of the applicant assaulting his official superior with a chappal in a public place on the evening of 1.10.92 is not a misconduct ^{cannot} at all be accepted.

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30. The applicant contend that punishment of removal from service was not warranted. He submits that even if the allegations are proved he is not liable to be removed from service. The allegations against the applicant is that on the evening of 1.10.92 the applicant caught hold of Sri MA.Hannan who was his immediate official superior in a public place and beat him with a chappal. This incident really shocked our conscious. An ED staff has gone to the extent of dishonouring his own official superior in the public place. Still he submits that these allegations even held to be proved, he is not liable to be removed. If such a contention is accepted then what act is to be considered as sufficient for imposition of penalty of removal cannot be comprehended. We find absolutely no reasons to interfere with the punishment imposed by the authorities.

31. The motive for the incident that occurred on the evening of 1.10.92 appears to be that Sri MA.Hannan had failed to disburse the salary of the applicant payable for the month of September 1992 either on 29.9.92 or 30.9.92. As per the version of Sri MA.Hannan he waited for the applicant to disburse his salary till the closing hours on 29.9.92 and on 30.9.92. When the applicant tried to send a telegram then also he asked the applicant to receive the salary and sign the acquittance roll but still the applicant insisted upon despatching the TGM and that he accepted the telegram on 30.9.92. The applicant himself refused to accept the salary on 30.9.92.

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Be that as it may, that cannot be a ground for the applicant to assault Sri M.A.Hannan at a public place on the evening of 1.10.92. If really Sri MA.Hannan had not disbursed his salary either on 29.9.92 or 30.9.92 and that was the motive behind incident occurred on 1.10.92 then he should have immediately brought this fact to the R-1 when he appeared at the sub-post office for conducting the preliminary enquiry on 3.10.92. Already observed the applicant refused to give statement to R-1 during the preliminary enquiry. R-1 has categorically stated that he brought to the notice of the applicant the complaint of Sri MA.Hannan dated 1.10.92 and asked the reaction of the applicant. The applicant then refused to give any statement.


32. Therefore that motive cannot be attributed to Sri M.A.Hannan. Even accepting for the moment that there was some delay in the disbursement in the salary of the applicant for the month of September 1992 he was not expected to assault Sri MA.Hannan in the public place.

33. As per the version of Sri MA.Hannan the incident has taken place at or about 4.30 pm at Vadderaballi near busstand. Sri M.A.Hannan has stated that he along with Hamumaiah was proceeding to take evening tea. The contention of the applicant is that closing hour of the sub post office was 5.30 pm and that therefore Sri MA.Hannan could not have been

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present at Vadderagalli at 4.30 pm. According to him he was expected to be in the office. Merely because Sri MA.Hannan had left the office to take tea at 4.30 pm it cannot be imagined that the incident as narrated by Sri MA.Hannan in his complaint dated 1.10.92 had not at all taken place. There are many instances where the officials may go out for tea during office hours. If the respondents authorities felt that Sri MA.Hannan could not have left sub-post office at 4.30 pm it was for them to take necessary action against Sri MA.Hannan. Merely because Sri MA.Hannan was found at Vadderagalli at 4.30 pm during office hours no inference can be drawn that the incident has not at all taken place. Hence we reject the contention of the applicant.

34. Coming to the Charge No.2 the applicant was put off from duty from the afternoon of 3.10.92. It appears the applicant refused to receive the memo putting him off duty. That memo was sent to the applicant through registered post. The envelope containing the said memo returned unserved. It is on these facts the Charge No.2 is framed indicating him that he deserted the duties. When the respondents themselves state that the applicant when put off from duty from the afternoon of 3.10.92 then there was no question for him to appear on 4.10.92. The respondents cannot say that the applicant deserted the duties from the afternoon of 3.10.92. When they themselves have prepared a memo putting him off from duty.



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35. During the course of the enquiry, the applicant got summoned register to show that he was performing the duties of delivering the telegrams on 3.10.92. In view of the register summoned by the applicant the charge of deserting the duties may not be proper. Merely because memo putting the applicant off duty returned unserved, it cannot be concluded that the applicant deserted the duties, for the respondents were aware that the applicant was put off from duty from 3.10.92 (afternoon). In this view of the matter we feel that Charge No.2 may not be proper.

36. However taking into consideration the facts and circumstances of the case, the disciplinary authority and the appellate authority have considered the case in proper perspective.


37. For the reasons stated above we are convinced that the imputations of misbehaviour (Charge No.1) against the applicant was too grave in nature calling for stern punishment. If any government establishment/organisation or any agency ^{to} has ^{and en-} maintain ^{ever} force discipline among its staff, such incidents must be dealt with firm hard. Therefore in our humble opinion we do not find any convincing reasons to interfere with the impugned orders.


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38. In that view of the matter, we find no merits in the OA and the OA is liable to be dismissed.

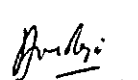
39. Accordingly the OA is dismissed. No costs.

(Enquiry proceedings produced by the respondents are perused and returned)


(B.S. JAI PARAMESHWAR)
Member (Judl.)
8/3/99


(R.RANGARAJAN)
Member (Adm.)

Dated : 8th March, 1999


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2. HHRP M(A)
3. HDSJP M(J)
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24/3/99
1st and 11nd Court.

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MEMBER (A)

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

DATED: 8/3/99

ORDER/JUDGMENT

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

IN

D.A.NO : 502/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

9 copies

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

17 MAR 1999

हैदराबाद न्यायपीठ
HYDERABAD BENCH