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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

..

O.A.No.524/97.

Date: April 30, 1997.

Between:

M. Prasada Rao. .. Applicant.

And

1. Postmaster General,  
Vijayawada Region,  
Vijayawada.
2. Director of Postal Services,  
Vijayawada Region, Vijayawada.
3. Chief Postmaster General,  
A.P.Circle, Hyderabad.
4. The Member (P) Postal Services  
Board, New Delhi. .. Respondents.

Counsel for the Applicant: Shri S.Ramakrishna Rao.

Counsel for the Respondents: Shri K.Bhaskara Rao.

CORAM:

HON'BLE SHRI JUSTICE K.M.AGARWAL, CHAIRMAN

Hon'ble Shri H.Rajendra Prasad, Member (A)

JUDGMENT:

(as per Hon'ble Shri Justice K.M.Agarwal, Chairman)

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On going through the impugned Order dated 21.6.1995  
passed by the Postmaster General, Vijayawada Region;  
on appeal preferred by the applicant, we find that the  
penalty imposed against the applicant by the Director  
of Postal Services was enhanced. The question,  
therefore, is whether the enhancement was made after

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notice or without notice to the applicant in proposing the enhancement of penalty.

The learned counsel for the Department was present. When the learned counsel for the Department was asked whether the said notice was or not served on the applicant before passing the impugned order dated 21-6-1995, the learned counsel referred to the order made by the Chief Post Master General, Andhra Pradesh Circle, Hyderabad on 20-8-1996. It is submitted that necessary notice was given to the applicant. But he was not in a position to <sup>say</sup> when the said notice was issued to the applicant. However, ~~he~~ ~~xxxxxx~~ turning the pages and on going through the material papers, ~~xxxxxx~~ ~~xxx~~ we find at page 28 of the material papers that a Notice dated 16-8-1995 (Annexure III to the O.A.) was issued by the Postmaster General, Vijayawada Region to the applicant.

In paragraph 2 of the said notice, it was specifically pointed out that penalty awarded against the applicant was found to be inadequate and after the said notice and hearing the applicant, the impugned Order, Annexure R-1 was passed by the ~~Chief~~ Post Master General. Aggrieved by the Order of the Postmaster General, it appears that a further appeal was preferred by the

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by the applicant which was forwarded to the Chief Post Master General, Hyderabad for disposal of the same in accordance with law and accordingly the so called impugned Order Annexure-IX came to be passed by the Chief Post Master General, Andhra Pradesh Circle, Hyderabad.

The learned counsel for the applicant submits that the Chief Post Master General was not the Competent Authority who had disposed of the appeal against the order of the Post Master General.

We are of the view that the contention is not tenable. It appears from the ~~from the~~ relevant provisions and the rules as quoted in Annexure VIII Order dated 25--3--1996 that the Chief Post Master General was the Competent Authority to deal with the appeal that was preferred against the order of the Post Master General.

The learned counsel further submitted that on the facts and the evidence on record, the alleged mis-conduct could not be said to have been made out against the applicant. However, we are of the view that we are not sitting in appeal against the order of the Disciplinary Authority or against

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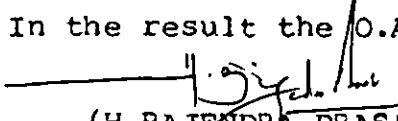
those of the Appellate Authority and therefore, we are not inclined to go into the merits of the case against the applicant. Suffice it to say that this is not a case of no evidence at all. There was evidence to prove the alleged mis-conduct against the applicant which was found to be proved and acted upon by the Authorities.


So far as the penalty is concerned, admittedly, the Post Master General has ~~has~~ also the authority and power to enhance or reduce the penalty. The only condition to exercise that power to enhancement of penalty is to give a notice to the delinquent Officer before exercising that power to enhance the penalty. That condition was fulfilled in the present case.

As to the extent of penalty, we are of the view on going through the entire material on record, of the applicant the alleged mis-conduct/was proved by and the enhanced penalty imposed upon the applicant by the Post Master General cannot be said to be bad in law.

For the foregoing reasons, we find no substance in the application and accordingly the O.A., has to be dismissed.

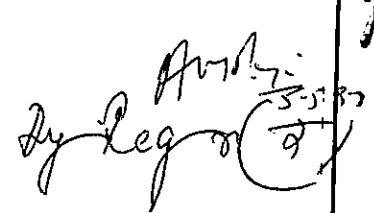
In the result the O.A., is dismissed. No costs.

  
(H. RAJENDRA PRASAD)  
Member (A)

  
(K.M. AGARWAL, J)  
Chairman.

Date: 30--4--1997-

sss.



Copy to:-

1. Postmaster General, Vijayawada Region,  
Vijayawada.
2. Director of Postal Services, Vijayawada Region,  
Vijayawada.
3. Chief Postmaster General, A.P. Circle, Hyderabad.
4. The Member (P) Postal Services,  
Board, New Delhi.
5. One copy to Shri S. Ramakrishna Rao, Advocate, CAT, Hyd.
6. One copy to Shri K. Bhaskara Rao, CGSC, CAT, Hyd.
7. One spare copy.

8. One copy to H. M. (P),  
9. One copy to P. L. (P),  
kku.

30/6/97

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

HON'BLE VHLI JUSTICE K.M. AGARWAL  
CHAIRMAN  
THE HON'BLE MR. JUSTICE  
VICE-CHAIRMAN

and

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

Dated: 30-4-1997

ORDER/JUDGMENT

M.A./T.A./C.A.NO.

O.A.No. 524/97  
T.A.No. in

(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.

pvm

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
प्रेषण/DESPATCH  
10 JUN 1997  
हयराबाद बेंच  
HYDERABAD BENCH