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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

O.A.No.608 OF 1997.

DATE OF ORDER:

Between:

B.Bhoopal Reddy. .. Applicant

and

1. Union of India, Represented by its Secretary, Ministry of Home Affairs, New Delhi.
2. The Joint Director, Subsidiary Intelligence Bureau, Tara Mandal Complex, 5-9-13, Saifabad, Hyderabad-4.
3. The Deputy Director, SIB, 5-9-13, Taramandal, Saifabad, Hyderabad.
4. The Joint Assistant Director(E), SIB, 5-9-13, Taramandal, Saifabad, Hyderabad.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.K.K.Chakravarthy

COUNSEL FOR THE RESPONDENTS :: Mr.V.Rajeshwara Rao

CORAM:

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

A N D

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

: O R D E R :

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

None appeared for the Applicant. The applicant was also absent when the OA was taken up for hearing. Heard Sri V.Rajeshwara Rao, the learned Standing Counsel for the Respondents. We are deciding this OA on the basis of the material available on record in accordance with Rule 15(1) of the CAT (Procedure) Rules, 1987.

2. The applicant herein while working as Junior Investigating Officer Grade-II(MT) under the office of the Respondent No.4, was removed from service for his unauthorised absence from 6-1-1996. His appeal against the Order of removal was rejected. Hence, he has filed this OA challenging the Order dated:15-7-96 of the Disciplinary Authority and Order dated:12/14-9-96 passed by the Appellate Authority.

3. The applicant while working as Junior Investigating Officer under the office of the Respondent No.4 was permitted to avail two days casual leave and to avail restricted holidays from 24-10-1995 to 27-10-1996.

4. After expiry of the leave, he did not report for duty. However, he submitted an application for sanction of Earned Leave. He was sanctioned Earned Leave from 24-10-1995 to 5-1-1996. He did not report for duty on 6-1-1996 and thereafter.

5. Hence, he was issued with a Charge Memo dated: 15-3-1996.

6. The Charge Memo was served on the applicant. The Inquiry Officer served notices fixing the dates of hearing. The applicant failed to participate in the Disciplinary Proceedings. The Inquiry Officer concluded the enquiry ~~ex parte~~ and submitted his report.

7. A copy of the report was furnished to the applicant, the applicant failed to submit his representation against the findings of the Inquiry Officer.

8. The Disciplinary Authority after considering the report of the Inquiry Officer and considering the Enquiry records imposed the penalty of removal from service with effect from 15-7-1996.

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9. Against the said punishment of removal, the applicant submitted an appeal to the Deputy Director, SIB, Hyderabad. The Appellate Authority considering the grounds made in the appeal rejected the same and confirmed the punishment by his Proceedings No.26/Estt (PF)/86(8)-2904, dated:12/14-9-1996.

10. The applicant has challenged the impugned Orders on the ground that he was not given sufficient opportunity to participate in the enquiry. That the enquiry was concluded ex parte. That the notices of the enquiry and the Enquiry Report were sent to the address where he was not available. It is stated that he was then at Nalgonda.

11. Earlier the applicant had challenged the Order of the Disciplinary Authority in OA.No.138 of 1997. On 11-2-1997 the Respondents Counsel submitted that the Appellate Authority had already disposed of the appeal, that Order of the Appellate Authority was sent to the applicant, that, however, the said envelope containing the Order of the Appellate Authority had returned unserved. Then before this Tribunal, the learned Counsel for the Respondents produced the returned envelope and handed it over to the learned Counsel for the Applicant. The learned Counsel for the Applicant after opening the envelope confirmed and submitted that the envelope contained the Order of the Appellate Authority dated: 12/14-9-1996. Then the learned Counsel for the Applicant withdrew the said OA reserving his liberty to challenge the Order of the Appellate Authority too.

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12. From the material available on record, we are not able to state with precision whether there was any irregularity in conducting the enquiry. The applicant submits that the Inquiry Officer had issued notices before fixing the dates of enquiry. Those notices were acknowledged by the applicant. The applicant has not explained the circumstances <sup>which</sup> under when he was prevented him from participating in the Disciplinary Proceedings. The Inquiry Officer had in the first instance fixed the date of enquiry on 21-5-1996. On that date the applicant remained absent. Thereafter, the Inquiry Officer adjourned the proceedings to 30-5-1996. The applicant remained absent on that date also. It is in these circumstances the Inquiry Officer concluded the Disciplinary Proceedings *ex parte* and submitted the report.

13. Had the applicant explained any reason or convincing cause for his absence on 21-5-1996 or on 30-5-1996, we could have ascertained the genuineness or otherwise of those grounds and we could have ordered that the Inquiry Authority to proceed from that date. But the applicant ~~had~~ was nowhere explained any cause for his absence on 21-5-1996 or 30-5-1996.

14. The applicant submits that he was involved in his father-in-law's affairs. However, it is disclosed that his father-in-law expired during the month of March, 1996. Therefore, we cannot find any justifiable reasons for the absence of the applicant before the Inquiry Officer either on 21-5-1996 or 30-5-1996.

15. The applicant submitted that the notices of fixing the dates of hearing and also the report of the Inquiry Officer were sent to the address where he was

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not available. It is not made clear, whether the applicant while submitting his leave applications or telegrams had indicated his then address so that the enquiry authorities could have sent the notices to the said address. However, the applicant admits to have received the notices sent by the Inquiry Officer. Further, the respondents in their reply specifically contended that the notices and the report of the Inquiry Officer were sent to the address mentioned by the applicant in the Memorandum of Appeal. When that is so, it cannot be imagined that notices were not served on the applicant. It is not the case of the applicant that the Inquiry Officer proceeded to conclude the Disciplinary Proceedings ex parte without serving the notices on him. The applicant admits to have received the notices from the Inquiry Officer fixing the date of enquiry. If he was really unable to participate in the Disciplinary Proceedings, the applicant could have requested the Inquiry Officer to adjourn the proceedings to a convenient date. He has kept quite receiving the notice of dates of hearing of the enquiry from the Inquiry Officer. He has not challenged the averment made in the reply by the respondents that all the proceedings were sent to the address where the applicant was residing. When that is so, it is for the applicant to explain the circumstances under which he could not submit his representation against the report of the Inquiry Officer or he could have stated in clear terms as to what prevented him from participating in the Disciplinary Proceedings.

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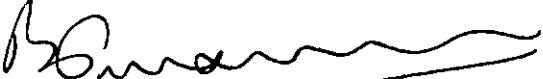
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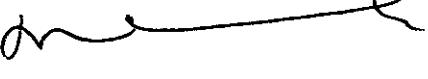
16. The applicant has not filed alongwith the OA the copy of the Charge Memo, copy of the report of the Inquiry Officer and the Memorandum of Appeal dated:2-8-1996. In the absence of these particulars, it is not possible for us to give a definite finding as to violation of Principles of Natural Justice in conducting the Disciplinary Proceedings against him.

17. The applicant further stated that the imposition of penalty was too harsh. We are not convinced with this submission. He was working in such an Organisation where discipline was more essential and necessary. When that is so, the applicant failed to report for duty after 6-1-1996. It is for the respondent-authorities to consider what punishment could be imposed on the applicant for his unauthorised absence. They are the best Judges to assess and impose proper punishment. This Tribunal cannot interfere with their conclusion.

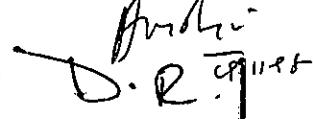
18. In that view of the matter, we find no merits in this OA. The OA is liable to be dismissed.

19. Hence, the OA is, therefore, dismissed leaving the parties to bear their own costs.

  
(B.S.JAI PARAMESHWAR)  
MEMBER (JUDL)  
19.11.98

  
(R.RANGARAJAN)  
MEMBER (ADMN)

Dated: 19 Nov 1998

  
D.R. Raj

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DSN

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## Copy to:

1. The Secretary, Min.of Home Affairs, New Delhi.
2. The Joint Director, Subsidiary Intelligence Bureau,  
Tara Mandal Complex, 5-9-13, Saifabad, Hyderabad.
3. The Deputy Director, SIB, 5-9-13, Taramandal,  
Saifabad, Hyderabad.
4. The Joint Assistant Director(E), SIB, 5-9-13, Taramandal,  
Saifabad, Hyderabad.
5. One copy to Mr.Mr.K.K.Chakravarthy,Advocate,CAT,Hyderabad.
6. One copy to Mr.V.Rajeswara Rao,Addl.CGSC,AT,Hyderabad.
7. One copy to HBSJP,M(J),CAT,Hyderabad.
8. One copy to D.R(O),CAT,Hyderabad.
9. One duplicate copy.

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II COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD,

THE HON'BLE SHRI R. RANGARAJAN : M(n)

AND

THE HON'BLE SHRI S.S. JAI PARAMESHWAR :  
M(j)

DATED : 19/11/98

ORDER/JUDGMENT

M.S.R.A/C.P.W.D.

D.A. NO. 608 <sup>in</sup> /97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

