

(22)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

CA No. 671/97.

Date of decision: 27-5-1997.

Between:

R.V.D.R.K. Prasad. .. Applicant.

and

1. Central Provident Fund Commissioner,  
Employees Provident Fund Organisation,  
Central Office, HUDCO Vishala,  
NEW DELHI 110 066.
2. Regional Provident Fund Commissioner,  
Employees Provident Fund Organisation,  
Barkatpura, Hyderabad 500 027. Respondents.

Counsel for the Applicant: Sri S.Ramakrishna Rao.

Counsel for the Respondents: ~~xx~~ None.

JUDGMENT.

(by Hon'ble Shri R. Rangarajan, Member (A).

..

Heard Sri S.Ramakrishna Rao, learned counsel for the applicant.~~xx~~ None for the respondents.

Sri Ramakrishna Rao states that he has informed Sri R.N.Reddy, learned counsel for the respondents in regard to this case as Sri Reddy is away at Bangalore and he is not attending <sup>the</sup> Court today. However, he states that in view of the nature of this case, the O.A., may be disposed of even without waiting for any submission by the learned counsel for the respondents.

The applicant in this O.A., while working as Assistant Accounts Officer under the 2nd Respondent, ~~h~~ was charge-sheeted before the Special Judge for CBI Cases

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Visakhapatnam in C.C.No.4/95. That case was disposed of on 10-12--1996 sentencing him with a penalty of imprisonment for one year and to pay a fine of Rs.1,000/- made for an offence punishable under Sections 7 and 13(1)(d) of P.C.Act,1988 with default clauses. The sentence was suspended by the Special Judge for CBI Cases Visakhapatnam for a period of one month i.e., till 10-1-1997 to enable the applicant to move the High Court of Andhra Pradesh in Criminal Appeal. The applicant preferred Criminal Appeal No.1062/96 before the Hon'ble High Court which was admitted on 26--12--1996. The High Court of Andhra Pradesh suspended the sentence of imprisonment passed by the Special Judge for CBI Cases, Visakhapatnam pending disposal of the Criminal Appeal No.1062/96 and released the applicant on bail on his executing <sup>a</sup> personal bond for a sum of Rs.5,000/- with one surety for the like sum. It is stated that the applicant is now working in the same post as Assistant Accounts Officer at Hyderabad under Respondent No.2

The applicant submits that he has forwarded a copy of the Order of the Hon'ble High Court to the Department on 7--1--1997.

In the meantime, the impugned Memorandum No. VIG.X(2)/95 dated 15-5-1997 dated 15--5--1997 was issued asking the applicant to show cause as to why the penalty of dismissal from service should not be imposed <sup>on</sup> against him in view of the punishment imposed

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on him by the Special Judge for CBI Cases, Visakhapatnam.

He was asked to submit his representation within 15 days from the date of receipt of the impugned Memorandum.

It is stated that ~~that~~ the applicant has submitted his reply on 24--5--1997 which is enclosed as Annexure ~~as~~ A-IV to the O.A.

This O.A., is filed to set aside the ~~the~~ Impugned Memorandum dated 15--5--1997 issued by the 1st respondent and for a consequential direction to Respondent No.1 not to proceed against him till the Criminal Appeal No.1062/96 is disposed of by the High Court of Andhra Pradesh.

It is to be noted that the sentence alone is suspended by the Hon'ble High Court in Criminal Appeal No.1062/96 and the order of the lower Court has not been set aside thereby exonerating the applicant, ~~and~~ the Criminal Appeal is still pending. In view of the Judgment of the Supreme Court reported in DY. DIRECTOR OF COLLEGIATE EDN (Administration) MADRAS vs. S. NAGOOR MEERA (1995 (2) SLJ -89.) <sup>pending</sup> <sub>pending</sub> of a criminal appeal is not a bar for the Department to proceed against the employee ~~detainment/term~~ if an employee is convicted by the lower court. In view of the above, I do not find any illegality in issuing the impugned Memorandum dated 15--5--1997. (1997) The applicant has already submitted his reply to the impugned Memorandum. Hence it is for Respondent No.1 to decide the issue judiciously ~~in~~ according to law after considering the reply of the applicant to the impugned Memorandum

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and also after perusing the Judgment of the Special Judge for CBI Cases, Visakhapatnam and Interim Order of the Hon'ble High Court in Criminal Appeal No.1062/96.

Thus, the O.A., is disposed of as above at the admission stage itself.



R. RANGARAJAN,  
MEMBER (A)

Date: 27th May, 1997.

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Dictated in open Court.

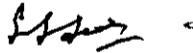
  
H. J. M.  
Deputy Registrar.

sss.

NOTE:

C.C., by Thursday (29-5-1997)

(B.O.)

  
(S. SIVA SANKARAM)

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O.A.671/97

To

1. The Central Provident Fund Commissioner,  
Employees Provident Fund Organisation,  
Central Office, HUDCO, Vishalay New Delhi-66
2. The Regional Provident Fund Commissioner,  
Employees Provident Fund Organisation,  
Barkatpura, Hyderabad-27.
3. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.R.N.Reddy, SC for RPF. CAT.Hyd.
5. One copy to D.R.(A) CAT.Hyd.
6. One spare copy.

pvm

126/97  
urged  
26/5/97.

COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE  
VICE-CHAIRMAN

and

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

Dated: 27-5-1997

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

O.A.No.

671/97.

T.A.No.

(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.

केन्द्रीय प्रशासनिक अधिकरण

Central Administrative Tribunal

प्रियाप/DESPATCH

10 JUN 1997

हैदराबाद आवास  
HYDERABAD BENCH