

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 913/97.

Dt. of Decision : 23-07-97.

R. Appa Rao

.. Applicant.

vs

1. The Commander,
Works Engineer, MUDFort,
Secunderabad.
2. The Chief Engineer,
Hyderabad Zone, MES,
Secunderabad.
3. The Garrison Engineer,
MES, Golconda, Hyderabad-8.

.. Respondents.

Counsel for the applicant

: Mr. K. Venkateswara Rao

Counsel for the respondents

: Mr. V. Rajeswara Rao, Addl.CGS.

CORAM:-

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

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

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[Signature]

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ORDER

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

Heard Mr.K.Venkateswara Rao, learned counsel for the
applicant and Mr.V.Rajeswara Rao, learned counsel for the
respondents.

2. The applicant in this OA while working as Mazdoor under R-3 was issued with a charge-sheet bearing No.158/383/EIC, dated 14-03-95 (Page-15 to the OA) for violation of Rule 3 (i) (iii) of CCS (Conduct) Rules, 1964, ⁱⁿ that he has produced bogus employment registration card. That charge-sheet was enquired into by the enquiry officer and the enquiry officer report was submitted which is enclosed at page-24,25 and 26. A copy of the enquiry report was supplied to the applicant vide memorandum No.158/651/EIC dated 30-04-96 (Page-21 to the OA). While supplying ^{the} enquiry report to the applicant by the memorandum quoted above, the disciplinary authority viz., R-1 has observed that he had provisionally come to the conclusion that the charges framed against the said applicant have been conclusively established. The undersigned, thus proposes to impose on him the penalty of dismissal from service which shall ordinarily be a disqualification for future employment under the Government. The applicant on receipt of that memorandum along with the enquiry report submitted his representation dated 27-05-96 (Page-35 to the OA). On the basis of that, the applicant was dismissed from service by the memorandum No.158/759/EIC dated 30-06-97 (Page-13 ~~xx~~ to the OA).

3. This OA is filed for setting aside the impugned order No.158/759/EIC dated 30-06-1997 (Page-13 to the OA) issued by R-1 by holding the same as illegal, arbitrary, discriminatory and violative of CCS (CCA) Rules, 1965 and for a consequential direction to re-instate him in service.

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4. The learned counsel for the applicant made the following important points in regard to the conduct of enquiry and awarding of punishment to the applicant herein.

5. The learned counsel for the applicant submitted that the enquiry report is a common proceedings under Rule-18 of the CCS(CCA) Rules, 1968. As the details of each of the accused employees ^{is} separate it is essential that the enquiry proceedings should be conducted individually instead of combined enquiry. Thus at the initial stage itself the enquiry was vitiated.

6. The second contention of the applicant in this OA is that ^{Copy of OA} the disciplinary authority while forwarding the enquiry report to him had come to a preconceived motion that the applicant is liable to be dismissed from service. Such a preconceived motion is not warranted. The disciplinary authority should decide the case judicially after getting his defence statement on the enquiry report. Till such time the defence statement is not received ^{from} by the applicant the ~~discipline~~ disciplinary authority cannot conclude or take a preconceived motion in regard to the punishment to be awarded to the applicant. Hence, the proceedings are once again vitiated because of the preconceived motion taken by the disciplinary authority viz., R-1 herein. This has also been indicated in his defence statement which is enclosed at Page-35 to this OA.

7. The third contention of the applicant is that the documents which are relied upon ^{Were} not supplied to him and is rejected ^{was} ^{on the} grounds that it is an official record. Such rejection is not warranted as that is ^{and} all the relied upon document atleast a xerox copy of the document should have been supplied to the applicant. Even that was not done. Hence, the principles of natural justice are not followed in this case.

8. The learned counsel for the respondents brought to our notice that the applicant has refused to sign the statement given by him as can be seen from Annexure-VII Page-33 to the OA. Thus the applicant has not co-operated in conducting the enquiry. But we feel that in case the applicant refused to sign it would have been taken on record on the basis of the witness present in the ^{Enquiry Room} ~~Court~~.

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9. In view of the above contention raised by the applicant the learned counsel for the applicant submits that this Tribunal can straight away set aside the ~~issue~~ ^{only} even though no appeal has been filed against the orders of the disciplinary authority. But after exhaustive discussion, the learned counsel for the applicant submitted that his contentions may be noted in the judgement and after that a direction may be given ~~for~~ ^{to} the applicant to file an appeal in this connection and also a direction to the appellate authority to dispose of that appeal within ~~a~~ ^{short} period..

10. In view of the above submission, the following direction is given:-

The applicant should submit a detailed ~~representation~~ ^{appeal} to the appellate authority including the contentions raised in this OA within a fortnight from to-day. If such ~~representation~~ ^{appeal} is received the appellate authority concerned should dispose of the same within two months from the date of receipt of a copy of that ~~representation~~ ^{appeal} taking due note of the observations made as above in the judgement.

11. The learned counsel for the applicant submitted that in view of the draw back in the conduct of the enquiry and issue of the punishment order, the appellate authority may be directed to suspend the impugned dismissal order. We do not propose to give any direction as prayed for as above. But the applicant is at liberty to make this request to the appellate authority and that appellate authority will decide the course of action necessary to be taken on the basis of his request.

12. With the above direction the OA is disposed of at the admission stage itself. No costs.

R
(B.V.JAI PARAMESHWAR)
MEMBER (JUDL.)

23.7.97

Dated : The 23rd July, 1997.
(Dictated in the Open Court)

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R
(R. RANGARAJAN)
MEMBER (ADMN.)

D.R.G.S.
D.R.G.S.

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Copy to:

1. The Commander, Works Engineer,
Mud Fort, Secunderabad.
2. The Chief Engineer, Hyderabad Zone, MES,
Secunderabad.
3. The Garrison Engineer, MES, Golconda,
Hyderabad.
4. One copy to Mr.K.Jenkateswara Rao, Advocate,CAT,Hyderabad.
5. One copy to Mr.V.Rajesra Rao, Addl.CGSC,CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One duplicate copy.

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

DATED 23/7/97

ORDER/JUDGEMENT

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

in

O.A.NO. 913/97

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

प्रशासनिक बोर्ड का नियम

Central Administrative Tribunal

नियम/प्रक्रिया/कार्य

23/7/97

हैदराबाद अधीक्षण

HYDERABAD, 1997

YLKR

II Court.

A. W. Chigayat