

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 975/97

Date of Order : 23.2.98

BETWEEN :

M.Prabhakar Rao

.. Applicant.

AND

1. The Senior Superintendent of
Post Offices, Prakasam Division,
Ongole District, Ongole.2. The Director of Postal Services,
O/o Postmaster General,
Vijayawada Region, Vijayawada.3. The Postmaster General,
Vijayawada Region, Vijayawada.4. The Chief Postmaster General,
A.P.Circle, Dak Sadan,
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

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

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

O R D E R

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

Mr.S.Ramakrishna Rao, learned counsel for the applicant and Mr.W.Satyanarayana for Mr.N.R.Devraj, learned standing counsel for the respondents.

[Signature]

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2. The applicant while working as HSG-II(BCR)/Postal Assistant, Chirala Head Post Office was awarded with the penalty of compulsory retirement from service vide memo ^{Impressed} dated 24.11.94 issued by R-3. The said punishment was as a part of review proceedings by enhancing the penalty of censure which was imposed on him by the disciplinary authority. The appellate authority imposed the said punishment of compulsory retirement ~~sue-moto~~ reviewing the punishment given by the disciplinary authority by his order dated 29.10.93. Against the said ~~order~~ ^{punishment} of compulsory retirement ordered by R-3 the applicant preferred an appeal to R-4 on 25.9.96. The R-4 by his proceedings dated 1.4.97 modified the punishment of compulsory retirement to that of reduction of pay by two stages from Rs.1950/- to Rs.1850/- in the scale of pay of Rs.1600-2660 for a period of one year. He further directed that the period of non-employment between the date of compulsory retirement and his superannuation would be counted as leave due and admissible. If the charged official had no leave at his credit, he would be at liberty to apply for any kind of leave that may be admissible to him under the rules.

3. While implementing the order of R-4 in proceedings No.B/PP/MPP, dated 13.6.97 an amount of Rs.32,938/- which was paid as pension ^{earlier} to the applicant from the date of compulsory retirement to the date of superannuation i.e. from 26.11.94 to 31.1.96 was ordered to be recovered. Further, it was directed that the amount paid ^{by} to him is connected ^{in with} reduction of pay by two stages from Rs.1950-1850 in the scale of pay of Rs.1600-2660 as per the order of R-4 has to be ascertained from the Postmaster, Chirala and credited at Chirala Head Post Office.

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

(a) to set aside the impugned order No.B/PC/MPR dated 13.6.97 of the 1st respondent, proposing to recover the pension already paid during compulsory retirement period and also the difference of reduction of pay, insisting on the applicant to credit the amounts as mentioned above and declare the action of the 1st respondent as arbitrary, illegal, unwarranted and in violation of Articles 14 & 16 of Constitution;

(b) to direct the 1st respondent to treat the period spent from the date of compulsory retirement to the date of superannuation i.e. from 26.11.94 to 31.1.96 as duty for all purposes with consequential payment of pay and allowances thereon, after taking the minor penalty of reduction of pay by two stages in consideration duly refix the pay accordingly and consequently to release the pensionary benefits to the applicant.

5. The respondents have filed the counter saying that the applicant was compulsorily retired from service that he submitted a representation to the C.P.M.G., A.P.Circle, Hyderabad that the R-4 ordered that the period of non-employment between the date of compulsory retirement and the date of normal superannuation would be counted for pension only in terms of FR-54(1)(b). At that time the applicant was given an undertaking on 6.6.97 stating that any type of over-payment or any other type of dues that are recoverable, can be recovered from the payments to be made to him or to recover the same from his pension/pension relief in connection with implementation of the orders of R-4. // Accordingly vide letter dated 13.6.97

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the applicant has been addressed to apply for eligible leave for the period of non-employment from 26.11.94 to 31.1.96 to regulate the said period and he was also intimated to credit the Rs.32,938 which was paid as pension from the compulsory retirement to the date of superannuation i.e. 26.11.94 to 31.1.96 in order to implement the proceedings issued by R-4. As the applicant did not apply for any leave and ^{way} also not willing to apply even for EX-OL, the period of non-employment could not be regularised and consequential benefits could not be worked out.

6. The applicant was compulsorily retired from service from 26.11.94. His normal date of superannuation is 31.1.96. As per the orders of R-4 punishment imposed has been modified to the reduction of pay by 2 stages from Rs.1950-1850 for a period of one year. Even the R-4 in his order categorically stated that the period of non-employment from the date of compulsory retirement to the date of normal superannuation should be counted as duty and he must be sanctioned ^{such} leave admissible to him.

7. The applicant it appears has not submitted any application for sanction of leave. Hence in the impugned order he was directed to deposit a sum of Rs.32,938 and also the amount to be paid by him on account of reduction of pay from Rs.1950-1850 for a period of one year. As per the directions of R-4 the applicant if so advised may submit an application for sanction of leave from 26.11.94 to 31.1.96 as indicated in the order of R-4. If he submits then the leave admissible to his credit may be sanctioned in accordance with the law and that the said period ^{may} be regularised accordingly. While implementing the order of R-4 the punishment imposed regarding

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reduction of pay be recovered from the retirement benefits paid to him. If any excess amount is required to be paid the same should be paid to him as directed in the impugned order. In case he is not submitting any leave application within the stipulated period the impugned order dated 13.6.97 stands good.

8. The OA is ~~dismissed~~ ^{disputed} with no costs.

B.S. JAI PARAMESHWAR
(B.S. JAI PARAMESHWAR)
23/2/98
Member (Judl.)

R.RANGARAJAN
(R.RANGARAJAN)
Member (Admn.)

Dated : 23rd February, 1998

(Dictated in Open Court)

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Copy to:

1. The Senior Superintendent of Post Offices, Prakasam Division, Ongole District, Ongole.
2. The Director of Postal Services, O/O Postmaster General, Vijayawada Region, Vijayawada.
3. The Postmaster General, Vijayawada Region, Vijayawada.
4. The Chief Postmaster General, A.P.Circle, Daksadan, Hyderabad.
5. One copy to Mr.S.Ramakrishna Rao,Advocate,CAT,Hyderabad.
6. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
7. One copy to HBSJP,M(J), CAT, Hyderabad.
8. One copy to O.R(A),CAT,Hyderabad.
9. One duplicate copy.

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11/3/88
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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED: 23/2/88

ORDER/JUDGMENT

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

in

O.A. NO. 975/82

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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