

40

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.998/97.

Dt. of Decision : 29-01-99.

Gulam Mohammad

.. Applicant.

Vs

1. The Director,
S.V.P.National Police Academy,
Hyderabad-500 252.
2. The Dy.Director,
S.V.P.National Police Academy,
Hyderabad-500 252.
3. The Asst. Director,
S.V.P.National Police Academy,
Hyderabad-500 252.

.. Respondents.

Counsel for the applicant : Mr.V.Venkateswara Rao

Counsel for the respondents : Mr.V.Vinod Kumar,Addl.CGSC.

CORAM:-

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

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

ORDER

ORAL ORDER (PER HON.Mr.B.S.JAI PARAMESHWAR : MEMBER (J))

Heard Mr.V.Venkateswara Rao, learned counsel for the applicant and Mr.V.Vinod Kumar, learned counsel for the respondents.

2. The applicant herein was working as Syce in the S.V.P.National Police Academy, Hyderabad. He was dismissed from service on his unauthorised absence after holding an enquiry. Thereafter the appellate authority considered the

Tu

punishment of dismissal and modified the same ^{to} one of compulsory retirement. That order of compulsory retirement passed by the appellate authority was considered by this Tribunal in OA.403/92 decided on 14-12-95. In para-12 this Tribunal observed as follows:-

"So we feel it a case to remand the matter to R-2 to consider as to whether in view of the above fact, the punishment of compulsory retirement requires further modification. Ofcourse, if he feels that it requires further modification, then it will be a case of reinstatement by awarding one of the major penalties and that if such reinstatement is going to be ordered, he may order that the period from the date of removal till the date of reinstatement has to be treated as dies non."

3. As per the direction given by this Tribunal the R-2 in that OA considered the matter afresh and by his impugned order No.21011/14/89-Estt. dated 9-2-96 (Annexure-II) confirmed the same.

4. The applicant has filed this OA praying to call for the records pertaining to the order No.21011/14/89/ Estt. dated 31-12-91 issued by the third respondent inflicting the punishment of dismissal from service on the applicant and the order No.21011/14/89-Estt. dated 9-2-96 issued by the 1st respondent imposing the punishment of compulsory retirement from service on the applicant as an appellate authority and to quash the same by declaring them as illegal, arbitrary, unconstitutional and malafide by holding that the applicant is entitled for reinstatement in to service with all consequential benefits.

5. The respondents have filed their reply narrating the circumstances in which the R-1 considered fit to retain the punishment inflicted on the applicant on the earlier occasion.

6. The learned counsel for the applicant during the course of arguments attempted to contend that the

3

punishment imposed on the applicant is harsh. Further he stated that the order passed by the R-1 is not in accordance with the direction given by this Tribunal.

7. The judgement in OA.403/92 clearly indicates that the compulsory retirement has to be modified to that of any other major penalty other than removal, ^{or} and dismissal and compulsory retirement and thereby he will earn his livelihood.

8. We have perused the impugned order dated 9-2-96 issued by R-1 in this OA. Para-3 of the impugned order is relevant. It appears that an attempt has been made to justify the punishment of compulsory retirement inspite of the above observations of this Tribunal in the earlier OA. Hence, we cannot conclusively come to the conclusion that the direction given in this OA has not been taken note by R-1 while passing the impugned order dated 9-2-96.

9. A Court or Tribunal cannot interfere with the punishment passed by the respondent authorities as observed by the Apex Court every now and then. Hence, even if we feel that a proper scrutiny of the case has not been done by the R-1 we cannot take the responsibility to modify that order. It is for the respondent authorities to decide in accordance with the law on the basis of the records available before them. Hence, it has to be held that R-1 in this OA has passed this order after knowing the full implication of the punishment granted to the applicant herein. In that view, we feel that the OA is liable only to be dismissed as having no merits. Accordingly, it is dismissed. No costs.

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

29.1.99

Dated : The 29th January, 1999.
(Dictated in the Open Court)

(R.RANGARAJAN)
MEMBER(ADMN.)

Copy to:

1. SHONJ
2. HHRP M(A)
3. HSSP M(J)
4. D.R. (A) ✓
5. SPARE

Typed By
Compared by

Checked by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

THE HON'BLE H. RAJENDRA PRASAD:
MEMBER (A)

THE HON'BLE R. RANGARAJAN
MEMBER (A)

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

DATED: 29-1-88

ORDER/JUDGMENT

M.A./R.A/C.P.NO. →

IN

R.A.NO : 998 (97)

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

(8 copies)

