

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL-APPLICATION-N0.787-OF-1997

DATE-OF-ORDER: 16 July, 1997

BETWEEN:

K.SOMASEKHAR

.. APPLICANT

AND

1. The Superintendent of Post Offices,
Anakapalle Division, Anakapalle,
2. The Director of Postal Services,
O/o the PMG, Visakhapatnam Region,
Visakhapatnam,
3. The Post Master General,
Visakhapatnam Region,
Visakhapatnam.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.K.VENKATESWARA RAO

COUNSEL FOR THE RESPONDENTS:Mr.V.BHIMANNA, ADDL.CGSC

CORAM:

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

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

ORDER

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

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

2. The applicant while working as IPO, Rule 14 charge sheet was issued to him on 10.8.92 by the memorandum No.B/I/11-13 dated 10.8.1992 containing three articles of charges. An inquiry was conducted in that connection and

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the inquiry proceedings were enclosed at pages 22 to 39 to the OA. The inquiry proceedings had held that all the three charges were not proved. R-1 sent ^{copy of the} ~~the~~ inquiry report to the applicant in ~~the~~ letter No.B/I/II-13 dated 23.5.96 (Annexure A-II at page 21 to the OA) and directed the applicant to submit his representation, if any, within 10 days. The applicant accordingly had submitted the explanation to R-1 on 11.6.96 requesting to drop the proceedings. It is stated that R-1 had merely forwarded the report of the Inquiry Officer and directed the applicant herein to submit his representation thereby meaning that R-1 is in full agreement with the Inquiry Officer's report and, therefore, dropped further action. The applicant submitted his representation.

3. When the matter stood thus, R-2 issued the memorandum No.Inv 111/309/III/81-82 dated 13.11.96 (Annexure A-VI at page 45 to the OA) disagreeing with the Inquiry Officer's report and an opportunity was given to make any representation for further processing of the disciplinary proceedings. The applicant submitted his defence statement to the show cause notice dated 13.11.96 of R-2 by his letter dated 27.11.96 (Annexure A-V at page 42 to the OA). The applicant in this OA further submits ^{on facts.} why he should not be proceeded against. But this point need not be gone into for the reasons mentioned/ paras in this judgment. The proceedings ended with the punishment of reduction to the lower grade of Time Scale Postal Assistant until his work and conduct is found satisfactory, after a period of four years with effect from 2.6.1997, by the impugned order dated 23.5.1997.

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5. This OA is filed for setting aside the impugned Memorandum NO. Inv-111/3-9/III/91-92 dated 23.5.1997 (Annexure A-I at page 11 to the OA) whereby the applicant was imposed the penalty by holding the same as illegal, arbitrary, discriminatory, unjust and motivated on extraneous grounds besides violative of Articles 14 and 16 of the Constitution of India.

5. The applicant now submits that once the inquiry report was sent to him which exonerated him, it would mean that the proceedings had ended and the inquiry report by the disciplinary authority cannot be sent to him unless there is disagreement and the disagreement ^{should have} ~~has~~ been indicated while forwarding the inquiry report. If there is no disagreement by the disciplinary authority and the inquiry proceedings exonerates the employee, there is no purpose in forwarding the inquiry report without disagreement as the applicant has nothing to say except to ask the disciplinary authority to drop the charges. The disagreement note should ~~be necessarily~~ ^{be} enclosed to the inquiry report if the disciplinary authority disagrees with the findings of the Inquiry Officer in terms of the Order 3 under Rule 15 (G.I., Dept. of Per. & Trg., O.M.No.11012/2/22/94-Estt.(A) dated 27.11.1995). The applicant also relies on the Order 12 under the same rule (Director-General, Posts, Letter No.1/46/90-Vig.III dated 18.7.1990) to come to the above conclusion.

6. The learned counsel for the respondents submitted that if the disagreement note is enclosed by the

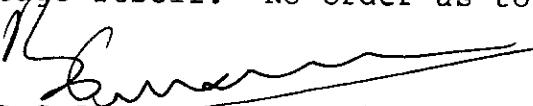
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[Signature]

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disciplinary authority and that disciplinary authority is incompetent to impose certain penalties and hence that report must necessarily be sent to the ~~hierarchy~~ ^{higher authority} for imposing that penalty, then the disagreement note sent along with the inquiry report will be construed as prejudicing the opinion of the higher authority. Hence, R-2 who is competent to impose the minor penalties had issued the charge sheet and as he was not competent to issue the major penalty, he forwarded the same to R-2 for imposing higher penalty by his letter NO.B/I/11-13 dated 19.6.1996. Hence law is not violated in this case. The applicant has been imposed the penalty by a proper authority in accordance with law by the impugned memorandum dated 23.5.97 (Annexure A-1 at Page 11 to the OA). Hence the question of quashing that impugned memorandum of punishment does not arise. || The applicant has a channel of redressal of his grievances by appealing to the next higher authority higher to R-2 who is the appellate authority. In that view, we do not like to express any opinion in this connection. The applicant, if so advised, may file a proper appeal to the appellate authority. If such an appeal is received by the appellate authority, that authority will deal with the same in accordance with law. However, because of filing of this OA, the time for appeal has been expired, the appellate authority shall consider his case, if an appeal is submitted within 45 days by the applicant from the date of receipt of a copy of this order.

7. The OA is ordered accordingly at the admission stage itself. No order as to costs.


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

(b174)

DATED: - 16/7/1997


(R.RANGARAJAN).
MEMBER (ADMN.)


D.R. (T)

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1.50/-

Copy to:

1. The Supdt. of Post Offices, Anakapalli Division Anakapalli.
2. The Director of Postal Services, O/O The PMG, Visakhapatnam Region, Visakhapatnam.
3. The Postmaster General, Visakhapatnam Region, Visakhapatnam.
4. One copy to Mr.K.Venkateswara Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
6. One copy to D.R(A)?CAT, Hyderabad.
7. One duplicate copy.

YLR

29/7/97

(A)

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 16/7/97

ORDER/JUDGEMENT

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

in
O.A. NO. 787(97)

Admitted and Interim
Issued. केन्द्रीय प्रशासनिक विकास
Central (Directions) Directorate

Allowed

DISPATCH

Disposed of with directions

28 JUL 1997
HYDERABAD BENCH

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected

No order as to costs.

YLR

B/w esp/97
II Court.