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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 97/93

Date of Order : 19.2.97

BETWEEN :

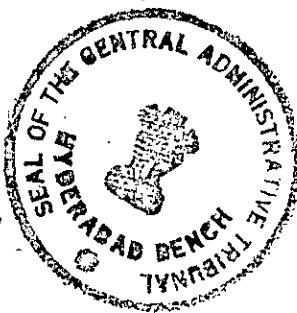
Y. Nagaraju

.. Applicant.

AND

1. The Supdt. of Post Offices, Anantapur Division and Dist.
2. Post Master General, AP Southern Region, Kurnool.
3. Chief Post Master General, A.P.Circle, Daksadan, Abids, Hyderabad.
4. The Director General of Posts, New Delhi.

.. Respondents.



Counsel for the Applicant

.. Mr. Krishna Devan

Counsel for the Respondents

.. Mr. N. V. Ramana

COURT:

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

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

JUDGEMENT

I Oral order as per Hon'ble Shri B. S. Jai Parameshwar, Member (J) )

None for the applicant. The applicant is also absent.  
Heard Mr. V. Rajeswara Rao for Mr. N. V. Ramana, learned counsel  
for the respondents.

2. The applicant while working as Superintendent of Post Offices, Tadipatri Sub-office an incident of theft took place wherein the department incurred loss to an extent of Rs. 106258-65. With respect to the said incident a major penalty of charge sheet was served on the applicant on 28.2.91. With respect to the said charge sheet an inquiry was conducted and by the order No. F7-1/90-91/Disc, dt. 30.12.92 punishment of reduction

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accordance with the rule within 3 months from the date of receipt of an appeal without rejecting his case on account of limitation for filing the appeal. //

8. The OA is ordered accordingly. No costs.

प्रमाणित प्रति  
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न्यायालय अधिकारी  
COURT OFFICER  
केन्द्रीय प्रशासनिक अदिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायालय  
HYDERABAD BENCH

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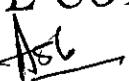
*ASL*  
ADVOCATE

केस संख्या	CASE NUMBER... O.A 971/93
निष्पत्ति का तारीख	Date of Judgement..... 18/2/87
प्रति तत्पार बिधा तथा दिन	Copy Made Ready on... 11/3/87
अधिकारी अधिकारी (मालिक) Section Officer (M)	

appointing authority to the staff in lower selection grade that under Rule 12(2)(a) of CCS (CCA) Rules provides that any of the <sup>the</sup> ~~rules~~ may be imposed <sup>in case</sup> by the appointing authority ~~may be imposed~~ penalties prescribed in the schedule that in view of the revised schedule rules, the Superintendent of Post Offices is competent to impose the punishment of reduction of pay on the applicant and that therefore there are no grounds to entertain the OA.

7. The applicant has taken another contention in the rejoinder relying on OA.712/90 disposed of on 27.1.93 to the effect that the reduction of pay permanently <sup>will have</sup> effect on pension entitlement ~~will have~~ cannot be imposed beyond the period till 10 months prior to the date of retirement. In the rejoinder the applicant has not contraverted the submission of the respondents in the reply that the SPO is competent to issue the penalty imposed on him now in view of the rule 13(2) of CCS (CCA) Rules. In view of the fact that he has not contraverted that reply, the applicant <sup>now</sup> ~~has~~ cannot say that an incompetent authority ~~impose~~ a punishment on him. However we do not propose to give any judgement on this point. The applicant had not filed any appeal in this connection. This would mean that the applicant has not exhausted the normal grievance redressal channel and hence the OA cannot be sustained in view of the Section 20(1) of the CAT Act. However we take a lenient view as the applicant had retired from service. Hence we direct the applicant to file a detailed appeal addressed to the concerned authority taking all the contentions submitted in this OA as well as other contentions which he deemed fit to be included and submit the same within a period of 2 months from the date of receipt of a copy of this order. If such an appeal is received by the competent authority within the stipulated time the same should be disposed of by the <sup>Appellate Authority</sup> ~~respondents~~ in

  
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## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A. NO. 97/93

Beyween:

Dt. of Order: 19.3.97

D.Y. Nagajaju

Applicant

And

1. The Supdt. of Post Offices, Ananthapur Division and District.
2. P.M.C., A.P. Southern Region, Kurnool.
3. C.P.M.C., A.P. Circle, Day Sadan, Abids, Hyderabad.
4. The Director General of Posts, New Delhi.

Respondents

Counsel for the Applicant : Mr. Krishna Devar

Counsel for the Respondents : Mr. N. V. Ramana

CORAM:

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

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

THE TRIBUNAL MADE THE FOLLOWING ORDER:

This OA was called today on the basis of the letter dt. 17.3.97 from the learned counsel for the applicant. The applicant submits that in the judgement in para-2 it is stated that the applicant is working as Superintendent of Post Offices, it should be corrected as Sub Post-Master instead of Superintendent of Post Offices. Similarly in the same para 7th line the impugned order is described as Dt. 30.12.92 instead of 30.11.92. In para-7, 2nd line the disposal of OA 712/90 is shown as 27.1.93 instead of 21.7.93. The applicant submits that those errors are typographical and prays for correction.

We have perused the judgement. The mistakes are due to typographical errors and following corrections are made:

In para-2 Line-1 read Sub Postmaster instead of Superintendent of Post Offices.

Similarly in Line-7 para-2 read the date of the impugned order as 30.11.92 instead of 30.12.92.

In para-7 Line-2 read the date of the disposal of OA 712/90 as 21.7.93 instead of 27.1.93.

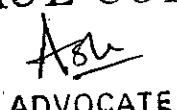
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न्यायालय अधिकारी

COURT OFFICER  
फिल्म प्रशासनिक अधिकारी  
Central Administrative Tribunal  
हैदराबाद बेंच  
HYDERABAD BENCH

Sd/- x x  
DEPUTY REGISTRAR (J)

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G R O U N D S

a) The negligence of the watchman concerned alone has resulted in the theft. Apart from taking disciplinary action against the watchman, the police has already ~~notified~~ the theft and recovered the stolen property. This aspect was also noted in the para '5' Page '7' of the orders of the punishing authority. Inspite of this, the SPO's, Anantapur has arbitrarily chosen to award the said major penalty.

b) The penalty commences from 1-12-92 for a period of 18 months which coincides with the date of my retirement i.e. 31-5-94. According to the extant Rules, for the fixation of pension of a person due for retirement the pay for the 10 months prior to date of retirement will be taken account. The penalty imposed on me reduces the pay for the last 10 months prior to retirement and hence my pension will be affected considerably. Further it was ordered that no increments would be earned during the period of penalty. Once the currency of the penalty expires the increments withheld have to be restored. But in my case the punishment ends or expires on 31-5-94 and hence no question of restoration of increments will arise thus the punishment awarded became remained a permanent measure which is not permissible as per Govt. of India, OMMF dt. 17-8-59, 9-6-60 and 24-6-63, at page 22 of Govt. of India decision No. 12 below Rule-11 of CCS CCA Rules 19th edition. *editon*

c) The Hon'ble CAT, Division Bench Hyderabad in O.A. 712/90, Dt. 21-7-93 has held as follows:  
Punishment of reduction to lower stage having the effect of reduction of pay permanently w.e.f. on pensionary entitlements

Contd. 3.P

TRU.  
AS  
ODM/SC

From:-

Y. Nagaraju, Ex Postal Asst(LSG)  
Tadipatri, Sub Post Office,  
Anantapur.

To,

The Director of Postal Services,  
o/o Postmaster General,  
A.P. Southern Region,  
KURNOOL

PAGE

Sir,

Sub:- Appeal against the order of punishment  
- reduction of pay to the lower stage.Ref:- Memo No.F7-1/90-91/DIAS, dt. 30-11-92  
passed by S.S.P.Os, Anantapur.

\*\*\*

While I was working as Sub Postmaster, Tadipatri (LSG) Post Office, on 24-9-90 theft taken place in the Post Office. In the wake of said incident, the Superintendent of Post Offices, has initiated disciplinary proceedings against me under Rule-14 and in the Memo No.F7-1/90-91/DIAS, dt. 30-11-92 has awarded the penalty of reduction of the pay to a lower stage of pay Rs.1760/- w.e.f. 1-12-92 in the pay scale of Rs.1400-2300 for a period of 18 months and further no increment will be earned during said period.

2. I have filed O.A.No.97/93 in the Central Administrative Tribunal, Hyderabad Bench challenging the punishment so awarded by the Supdt. of Post Offices, Anantapur. Later, I was retired from service on superannuation w.e.f. 31-5-94 and the penalty was given effect to and my pension was fixed on the basis of pay which is a reduced one.

3. The Hon'ble CAT, Hyderabad upon consideration of the contents, in its order dated 19-2-97 has directed me to prefer a detailed appeal to the competent authority and further directed that the limitation for filing an appeal cannot be a bar for consideration of the appeal and hence the present appeal.

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cannot be imposed beyond the period till 10 months prior to the order of the Supdt. of Post Offices, Anantapur wherein the penalty of reduction of pay the lower stage till 31-5-94 as a permanent measure and also affecting my pension, is not permissible. This aspect was also referred to by the Hon'ble CAT, in the O.A filed by me at para '7'.

(4) Therefore, I request you to set aside the impugned order of punishment dated 30-11-92 passed by the SPO's, Anantapur and direct the SPO's to fix my pension as if there is no penalty in currency till the date of retirement.

(5) As my health condition is deteriorating day by day, I request you to consider this appeal at an early period, though the Hon'ble Tribunal fixed 2 months time.

Date: 17-3-97

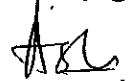
Yours faithfully,

(S)

Enclosures:

1. Copy of the Judgment of CAT, Hyderabad in the O.A.No.97/93, dt.19-2-97.
2. Copy of Swamy's News Journal (Ex-Examiner) dated 29 March 94 Page 173 & 174 reporting Judgment of CAT, Hyderabad in O.A.712/90

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ADVOCATE

i) The contention of the appellant that the negligence of the watchman concerned alone resulted in the theft is not correct. The appellant being the head of the office is responsible for the safety and security of the office cash. The appellant, while working as SPH, Tadpatri SO on 24-9-90 failed to ensure the safety by checking the locking of 2 doors leading to treasury from the counter hall and also failed to take action to get the broken shutter of the door leading from the counter hall to the delivery yard in the rear portion repaired. He further irregularly allowed access to the Gr.D night watchman to sleep inside the office instead of guarding it from outside on the night of 24/25-9-90. This has contributed to the theft on the night of 24/9/90 resulting loss to the tune of Rs.1,06,258-65 to the Dept. Thus, the appellant is primarily responsible for the theft occurred.

ii) It may be a fact that the penalty imposed on the official affected the pension. No rule forbids inflicting punishment which ultimately affects the pension. As per the provisions of CCS (CCA) Rules, 1965, such order which affects pension can be issued if an inquiry under rule 14 is held. Thus, the order of punishment is quite in order. In this case, the punishment is for a limited period of 18 months, but not for unlimited period, as argued by him. The contention of the appellant that the punishment awarded became a permanent measure is not correct, as the period of punishment was clearly mentioned as 18 months with effect from 1-12-92 in the proceedings. Further, the judgment in OA 712/90 of Hyd. Bench cited by the appellant is not related to his case and cannot be applied since the order therein related to payment of pension only.

iii) It is a fact that the appellant was promoted to LSG cadre with effect from 18-10-85 vide PMG, Hyderabad Memo. No. ST/6.1/85-86 dt. 14-11-85 and the DPS was the appointing authority in respect of officials of LSG cadre. Since the punishment awarded by the SPOs, Anantapur vide his memo. dt. 30-11-92 adversely affects the pension of the official, it comes under major penalty only. Even though Rule 14 inquiry was conducted in this case, the SPOs, Anantapur is competent to impose any of the minor penalties only but not major penalty. He should have submitted the case to the DPS, Kurnool for passing final orders. Therefore, the orders passed by the SPOs, Anantapur vide memo. dt. 30-11-92 are void due to technicality.

iv) The contention of the appellant that BCR promotion is to be given by virtue of completion of 26 years of service is not correct. Not only the length of service, but fitness is also a point of consideration for promotion to BCR cadre and he cannot claim that he should be given BCR promotion automatically.

5. Though there are no grounds to interfere on the orders passed by the SPOs, Anantapur, which are not commensurate to the lapses on the part of the official which resulted in the loss of Rs.1,06,258-65 to the Dept., the orders passed by the SPOs, Anantapur in his memo. No. F7-1/90-91/Discre. dt. 30-11-92 which are now appealed are set aside purely on technical grounds, but not on the merits of the case.

Government of India. Department of Post.  
Office of the Postmaster-General, Kurnool Region, Kurnool-518 005.  
Memo. No. ST-IV/13-7/97 dated at Kurnool-518 005 the 30-6-1997.

Read the following:-

1. Memo. No. F6-1/Disc/91-92 dt. 30-11-92, of the Supdt. of Post Offices, Anantapur.
2. Judgment dt. 19-2-97 in OA No. 97/93 of the Hon'ble CAT, Hyd. Bench filed by Sri Y. Nagaraju, ex-PA, Anantapur Divn.
3. Appeal dt. 17-3-97 of Sri Y. Nagaraju; and
4. Other connected records.

ORDER.

Sri Y. Nagaraju, ex-PA, Tadpatri LSGSO in Anantapur Dr., without preferring an appeal against the punishment order of the SPOs, Anantapur in Memo. No. F7-1/90-91/Disc. dt. 30-11-92, submitted a representation dt. 29-12-92 to the Hon'ble CAT, Hyderabad stating that the SPOs is not competent to issue the major penalty charge sheet to him. He was awarded with a punishment of reduction to the lower stage of Rs. 1750/- with effect from 1-12-92 in the time scale of Rs. 1400--40--1800--5B--50--2300 for a period of 18 months vide SPOs, Anantapur Memo. No. F7-1/90-91/Disc. dt. 30-11-92 on finalisation of the rule 14 case. Thereafter, the applicant filed OA 97/93 challenging the proceedings dt. 30-11-92 and to direct the respondents to draw pay and allowances with increment till he retired from service i.e. upto 31-3-94. Further, the applicant filed a rejoinder stating that the reduction of pay permanently will affect the pension entitlement and that reduction cannot be imposed beyond the period till 10 months prior to the date of retirement. The Hon'ble CAT disposed of the OA on 19-2-97 with a direction to the applicant to file a detailed appeal addressed to the concerned authority within a period of 2 months from the date of receipt of the order with further direction to the appellate authority to dispose of the appeal in accordance with the rules, within 3 months from the date of receipt of the appeal without rejecting the case on account of limitation for filing the appeal. Accordingly, the appellant submitted his appeal dt. 17-3-97 and the same was received by the undersigned on 31-3-97. In continuation of his appeal dt. 17-3-97, the appellant submitted another representation dt. 28-4-97 and it was received in this office on 29-4-97.

2. The appellant contended as follows in his appeal:-

- i) The negligence of the watchman concerned alone has resulted in the theft.
- ii) The punishment awarded became a permanent measure which is not permissible as per rules and also this affects his pension.
- iii) His appointing authority in LSG cadre was PNG during 1963. Therefore, the SPOs, Anantapur, who is lower in rank, will not be competent to impose the penalty on him.
- iv) BCR promotion was withheld to him due to pending inquiry case and this is not a bar for BCR promotion and it is only on the virtue of completion of 26 years of service.

3. I have gone through the appeal carefully with the connected records of the case. The points raised by the appellant are discussed below:-

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After taking all the circumstances of the case, I, Ms. K. Sandhya Rani, Director of Postal Services, Kurnool feel that the official cannot be left scot-free completely by setting aside the punishment orders issued by the SPOs, Anantapur. I, therefore, order that the pay of the official be reduced by one stage from Rs. 1800/- to 1760/- for a period of 18 months effective from 1-12-92, the date from which the order of SPOs, Anantapur in Memo. No. F7-1/90-91/Disc. dt. 30-11-92 was implemented. The punishment will not have any cumulative effect and during the period of punishment, he will not earn any increments.

*S.R.*

(K. Sandhya Rani),  
Director of Postal Services,  
o/o PMG, Kurnool Region, Kurnool-517 001  
A. K. Rani

To  
Sri Y. Nagaraju,  
ex-Postal Asst.,  
Tadpatri LSG SO,  
Anantapur Divn. (through the Supdt. of Post Offices,  
Anantapur).

\*\*\*\*\*

Erdt. No. F7-1/90-91/Disc II did at AP, the 8/7/97

Copy forwarded to:-

Sri Y. Nagaraju,  
Rtd. Postal Asst.,  
Tadpatri - 515 411.

*AMM*  
POST OFFICE, ANANTAPUR  
SCHOOL OF POST OFFICES  
ANANTAPUR DIVISION, 515 411

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*AB*  
ADVOCATE

11/1/31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH  
AT HYDERABAD

O.A. No. 1377 of 1997

Between :

Y. Nagaraju ... Applicant

And

The Superintendent of  
Post Offices,  
Anantapur Division,  
Anantapur & 2 others ... Respondents

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS

I, H. Seshagiri Rao, s/o Narasimha Murthy, aged about 56 years, occupation : Government service; resident of Hyderabad; do hereby solemnly and sincerely affirm and state as follows :

1. I am the Assistant Postmaster- General (S & V) in the office of the Chief Postmaster-General, A.P. Circle, Hyderabad and as such I am well acquainted with the facts of the case. I am authorised to give this Reply Statement on behalf of the respondents.

2. I have read the Original Application filed by the above named Applicant and I deny the several material allegations made therein except those that are specifically admitted herein.

3. Before traversing in detail the several material allegations, averments and contentions made therein, I beg to submit as follows :

27/6/97

ATTESTOR

అసాయిక్ లెసెసర్ శెషగిరి (సి.ఎస్.)  
Assistant Secretary / Officer (Hudayri)  
ప్రధాన పోస్టమాస్టర్ జనరల్ కా కార్పొలెట  
Office of the Chief Postmaster General  
బెంగలూరు, 560001, 500001.  
A.P. CIRCLE, HYDERABAD-500001.

H.S.Rao

DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General,  
A.P. Circle, Hyderabad-500001.

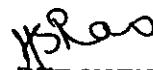
4. The applicant whose date of birth is 1.6.1936 joined this Department on 1.3.62 in Clerical cadre. He was originally recruited in the clerical cadre by the S.S.P.Os., Krishna Division, vide Memo. No. B3/Genl/Appts., dated 14.3.1962. He was subsequently transferred to and working in Anantapur Division. He was the S.P.M., Tadpatri LSGSO on 24/25.9.90, on which date there was a theft at Tadpatri LSGSO involving loss of Rs. 1,06,258-65 to the Department. Departmental enquiries revealed that the said official was responsible for contributory negligence in this case. Hence he was issued with a charge sheet under Rule-14 of CCS (CCA) Rules 1965 and detailed enquiry was conducted by appointing I.O. and P.O. and also affording reasonable opportunity to defend his case by allowing his chosen Assisting Official. On receipt of I.O's report, he was served with a show cause notice and after taking into consideration his reply to the show cause notice, the case was finalised and orders of punishment were passed by the S.P.Os., Anantapur, on 30.11.1992, reducing the pay of the official to the stage of Rs. 1,760/- from Rs. 1,800/- for a period of 18 months without earning increment during the period.

It is further submitted that the applicant filed O.A. No. 97/93 challenging the orders of punishment given by the S.P.Os on 30.11.1992. While disposing the above said O.A., the Hon'ble C.A.T. issued directions to the applicant to prefer an appeal to the D.P.S., Kurnool and simultaneously ordered that the appeal should be entertained and disposed by the D.P.S., Kurnool without rejecting the case on account of limitation



ATTESTOR

સહાયક સેક્ટર અધિકારી (બજાર)  
Assistant Accounts Officer (Bazaar)  
સુધ્ય પોસ્ટમાસ્ટર જારલ કા કાર્યાલય  
Office of the Chief Postmaster General  
અંગ્રેઝ માલ, કે.પે.સે. 500 001.  
A.P. CIRCLE, HYDERABAD-500 001.



DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

period of appeal. Accordingly, the Applicant has preferred an appeal dated 17.3.97 and it was disposed by the D.P.S., Kurnool on 30.6.1997. Since it was found that the punishment imposed by S.P., Anantapur, was a major one for which S.P., Anantapur is not competent, the D.P.S. has set aside the punishment awarded by the S.P.Os., Anantapur and awarded punishment afresh vide Memo. No. ST.IV/13-7/97, dated 30.6.97, ordering that the pay of the official be reduced by one stage from Rs. 1,800/- to Rs. 1,760/- for a period of 18 months effective from 1.12.1992, the date from which the order of S.P.Os., Anantapur in Memo. No. F7-1/90-91/Disc., dated 30.11.92 was implemented. The punishment will not have any cumulative effect and during the period of punishment he will not earn any increment. The present O.A. filed by the official is against the said orders.

5. In reply to Paras 1 to 4 (a) : Needs no comments.

6. In reply to Para-4(b) : It is submitted that it is a fact that the applicant promoted to TBOP vide R.O. Memo. No. ST-IV/I/85-86, dated the 14.11.1985 and that he has been working as S.P.M., Tadpatri LSGSO since 9.6.90.

7. In reply to Para-4(c) : It is submitted that it is a fact that the theft occurred in Tadpatri LSGSO on the night of 24/25.9.90 by breaking open the locked door involving loss to the tune of Rs. 1,06,258-65 to the Department. The case was reported to the Police who filed a charge sheet in J.F.C.M. Court, Tadpatri under C.C.No. 24/91. The judgement was pronounced on 6.3.91, convicting the accused i.e. an outsider

  
ATTESTOR

అసిస్టెంట్ ఏక్యామెన్టరీ (మండల)  
Assistant Accountant Officer (Mandal)  
ప్రధాన పోస్టమాస్టర్ జనరల్ కార్యాలయ  
Office of the Chief Postmaster General  
అంధ్ర ప్రాంత, హైదరాబాద్-500 001.  
A.P. CIRCLE, HYDERABAD-500 001.

  
DEPONENT

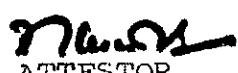
Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

to R.I. for a period of one year and also transferred to Rs. 30,000/- recovered from the convict to the Postal Department.

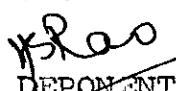
8. In reply to Para-4(d) : It is submitted that since the punishment awarded to the official adversely affects the amount of pension, the penalty should be classified as a major one mentioned at Clause (v) of Rule-11. It was erroneously concluded then that the punishment comes under minor penalties.

9. In reply to Para-4(e) : It is submitted that as per the directions of the Hon'ble Tribunal in O.A. No. 97/93, the official has submitted an appeal dated 17.3.1997 to the D.P.S., Kurnool. The D.P.S., Kurnool examined the appeal and found that the punishment by the SSPOS, Anantapur comes under major one for which the SPOS, Anantapur is not competent to issue and therefore, set aside the punishment awarded by him and finalised the disciplinary case afresh ordering the same punishment with some modifications. Therefore, the argument of the applicant that the D.P.S. confirmed the punishment orders of S.P.Os., Anantapur is not correct. Thus it can be taken that the disciplinary case was finalised by the D.P.S. who is competent to finalise.

10. In reply to Para-5(i) : It is submitted that the argument of the applicant that the post office is located in a old private building and no action has been taken by the authorities to make it fool-proof and security could not be improved is not correct. The argument of the applicant that the building where the P.O. is located is

  
ATTESTOR

અસ્સાન્સ એક્ઝાન્સ ઓફિસર (બજેટ)  
Assistant Accounts Officer (Budget)  
અસ્સાન્સ એક્ઝાન્સ ઓફિસર કા કાર્યાલય  
Office of the Asst. Postmaster General  
અ.પ. સિર્કિલ, હૈડરાબાદ-500 001  
A.P. CIRCLE, HYDERABAD-500 001

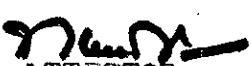
  
DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

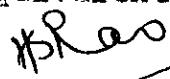
prone to theft is not tenable as he did never reported about the same. Regarding safety and security, the office was provided with a Departmental Night Watchman.

11. In reply to Para-5(2) : It is submitted that the applicant's contention that the negligence of the Watchman on duty has along resulted in the theft is not correct. The applicant being the Head of the Office is responsible for the safety and security of the office cash during and after working hours. He is the custodian of Government property and he is expected to take all steps to prevent loss of Government property. The applicant while working as S.P.M., Tadpatri S.O. on 24-25/9/90 failed to ensure the safety by checking the locking on 2 doors leading to Treasury from counter hall and also failed to take action to get the broken shutters of the door leading from counter hall to the Delivery Yard in the rear portion repaired. He has further irregularly allowed access to the Group-D Night Watchman to inside portion of the office which facilitated the Night Watchman to sleep inside the office instead of guarding it from outside on the night of 24/25.9.90. This has directly allowed to for the theft on the night of 24-25/9-90, resulting in loss to the tune of Rs. 1,06,258-65 to the Department. Thus the applicant is solely responsible for the theft.

12. In reply to Para-5(3) : It is a fact that the applicant appointed by the SSPOS, Krishna Division. The argument of the applicant that the disciplinary proceedings should have been initiated by the authority equivalent to

  
ATTESTOR

मुहायक लेका अधिकारी (बजट)  
Assistant Account Officer (Audit)  
मुहायक पोस्टमस्टर जनरल का कार्यालय  
Office of the Chief Postmaster General  
आ० १४७५३, २-२२२८-२१०००१  
A.P. CIRCLE, HYDERABAD-500 001.

  
DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

the rank of S.S.P.Os only is not correct since the disciplinary authority viz. SPOs, Anantapur is competent to initiate action under Rule-14 of C.C.S (C.C.A) Rules 1965 against the applicant as per Rule 13(2) of C.C.S (C.C.A) Rules 1965.

13. In reply to Para-5(4) : It is submitted that the disciplinary authority competent under CCS (CCA) Rules 1965 to impose any of the penalties specified in Clauses (i) to (iv) of Rule may institute disciplinary proceedings against any Government servant for imposing any penalties specified in Clause (v) to (ix) of Rule-11 though not competent to impose major penalties. Therefore, the contention of the applicant that the S.P.Os., Anantapur cannot initiate proceedings under Rule-14 is not tenable. As contended by the applicant the D.P.S. has not confirmed the punishment of S.P.Os., Anantapur, but set aside his orders and issued fresh punishment orders with some modification vide his Memo. dated 30.6.1997.

14. In reply to Paras 5(5) and 5(7) : It is submitted that the judgement in the case cited relates to Railway Department and is not applicable to the Applicant. Further no rule prohibits awarding punishment which ultimately results affecting the pension of the applicant.

15. In reply to Para-5(8) : It is submitted that the judgement on O.A. No. 712/90 is applicable to those approached the Hon'ble C.A.T. and it cannot be extended to others.

  
ATTESTOR

सहायक खेत्री अधिकारी (एवट)  
Assistant Account Officer (Evaat)  
मुख्य पोस्टमैनरी ब्रांडल का कार्यालय  
Office of the Chief Postmaster General  
अ.प. पॉस्ट, हैदराबाद-500 001.  
A.P. CIRCLE, HYDERABAD-500 001.

  
DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

15. In reply to Para-5(9) and 5(10) : It is submitted that as per the provisions of the rules, the orders which affect the pension of the official can be issued if an enquiry under Rule-14 is held. The date of expiry of punishment period coincidentally happens to be the date of superannuation. The claim of the applicant that the punishment awarded became a permanent measure is not correct as the period of punishment was clearly mentioned as 18 months with effect from 1.12.1992 in the said proceedings. The O.Ms cited by the applicant are not traceable and therefore cannot be commented upon. The contention of the applicant that the punishment of reduction to the lower stage in the pay scale remain reduction of pay permanently and affects pensionary benefits entitlements and cannot be imposed beyond 10 months prior to retirement is not maintainable.

16. In reply to Para-5(11) : It is submitted that the argument of the official that he retired on 31.5.94 and there was no source of income is not correct since he was paid pensionary benefits like gratuity, encashment of leave, commutation of pension etc. besides pension every month.

17. In reply to Para-6 : It is submitted that he has not exhausted all channels of preferring appeal to the P.M.G. and petition to the Directorate.

18. In reply to Paras-7 to 11 : Needs no comments.

.....  
ATTESTOR

महात्मा गांधी (४३२)  
Assistant Accounts Officer (Audit)  
मुख्य पोस्टमास्टर जनरल का कार्यालय  
Office of the Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.  
A.P. CIRCLE, HYDERABAD-500 001.

*W.P. 60*  
DEPONENT  
Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General,  
A.P. Circle, Hyderabad-500 001.

In view of the facts stated supra, it is submitted that the Applicant has not made out a fit case for consideration and it is prayed that this Honourable Tribunal may be pleased to dismiss the O.A.

*Rao*

DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General,  
A.P. Circle, Hyderabad-500 001.

Sworn and signed before  
me on this the 30<sup>th</sup> day  
of ~~Dec~~ 1997 at  
Hyderabad.

Before Me

*g/1605/1*

ATTESTOR

तेहावक लेखा अधिकारी (बजट)  
Assistant Accounts Officer (Budget)  
महाय पोस्टमास्टर जनरल ऑफिस  
Office of the Chief Postmaster General,  
A.P. Circle, Hyderabad, 500 001, 1997.

BRM\*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD

O.A. NO. 1377 of 1997

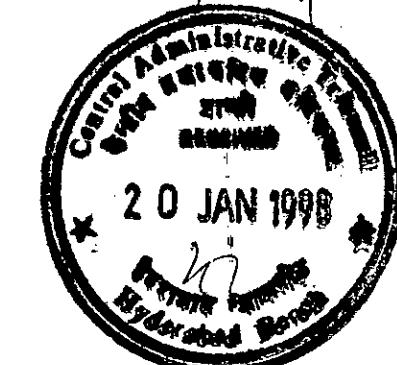
Between :

Y. Nagaraju .. Applicant

And

The Superintendent of  
Post Offices,  
Anantapur Division,  
Anantapur,  
and 2 others .. Respondents

Filed on :



Filed by : N.V. Raghava Reddy,  
Addl. C.G.S.C.

May 10 1998  
20/1/98

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

\*\*\*

O.A.1377/97.

Dt. of Decision : 8-3-99.

Y.Nagaraju

.. Applicant.

vs

1. The Supdt. of Post Offices,  
Anantapur Division, Anantapur.
2. The Director of Postal Services,  
O/o the Postmaster General,  
Kurnool Division, Kurnool-5.
3. The Union of India, rep. by the  
Director General, Dept. of Posts,  
New Delhi-1.

.. Respondents.

Counsel for the applicant : Mr.Krishna Devan

Counsel for the respondents : Mr.V.Rajeswara Rao, Addl.CGSC.

CORAM:-

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

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

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ORDER

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

Heard Mr.Krishna Devan, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. The applicant in this OA was appointed as Clerk on 1-3-1962. The applicant was promoted on 18-10-85 as an official in the Lower Selection Grade under TBP Scheme. The R-1 had initiated disciplinary proceedings against the applicant and accordingly issued a chargesheet on 28-02-91 wherein Rule-14 enquiry was proposed to be held. The enquiry has ~~not~~ been completed and R-1 viz., The Superintendent of Post Offices, Anantapur Division, Anantapur has passed Memo No.F7-1/90-91/Disc., dated 30-11-92 wherein the applicant was awarded with penalty of Reduction of pay to the lower stage in the scale of pay for 18 months without earning increments during that period. As the penalty imposed was a major penalty and R-1 is not competent to issue a major penalty on the applicant, the applicant had represented to ~~higher~~ higher authority viz., R-2 herein i.e., the Director of Postal Services imposing on 29-12-1992. As R-1 sustained the action of major penalty as valid, he filed OA.97/93 on the file of this Bench ~~as~~ which was disposed of on 19-3-97 directing the applicant to file a detailed appeal addressed to the concerned authority taking all the contentions submitted in this OA as well as other contentions which he deemed fit to be included and submit the same within a period of 2 months from the date of receipt of that order. If such an appeal is received by the competent authority within the stipulated time the same should be disposed of by that appellate authority in accordance with the rules





within 3 months from the date of receipt of that appeal without rejecting his case on account of limitation for filing the appeal.

3. Accordingly, the applicant submitted an appeal on 17-3-97 to R-2, who considered the submissions made therein and by order No.ST-4/13-7 dated 30-06-97 (Annexure-7) ~~xxxxxx~~ confirmed the penalty imposed by R-1.

4. Aggrieved by the above order this OA is filed praying for setting aside the impugned order of R-1 No.F7-1/90-91/Disc. dated 30-11-92 and the proceedings of R-2 No.ST-4/13-7 dated 30-06-97 and for a consequential direction to the respondents to draw the pay and allowances along with the increments fell due till the date of retirement and allow consequential benefits including promotion.

5. We have perused the appellate order dated 30-6-97 enclosed as Annexure-7 to the OA. The appellate authority had observed that "Even though Rule-14 inquiry was conducted in this case, the SPOs, Anantapur is competent to impose any of the minor penalties only but not major penalty. He should have submitted the case to the DPS, Kurnool for passing final orders. (R-1 herein) Therefore, the orders passed by the SPOs/ Anantapur ~~viꝫe~~ Memo dated 30-11-92 are void due to technicality." By this observations R-2 had set aside the order of R-1.

6. Further the contention of the applicant that the BCR promotion is to be given by virtue of completion of 26 years of service is not correct. Not only the length of service ~~is~~ but fitness is also a point for consideration for promotion to BCR cadre and he cannot claim ~~is~~ that he should be given BCR promotion automatically. The R-2 further added <sup>WIK</sup> that though there are no grounds to interfere ~~on~~ <sup>with</sup> the orders

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passed by the SPOs, Anantapur, which are not commensurate to the lapses on the part of the official which resulted in the loss of Rs.1,06,258-65 to the department, the orders passed by the SPOs, Anantapur in his memo No.F7-1/90-91/Disc. dated 30-11-92 which are now appealed are set aside purely on technical grounds, but not on the merits of the case.

7. After passing that order he has further added as follows:-

"After taking all the circumstances of the case, I, Ms.K.Sandhya Rani, Director of Postal Services, Kurnool feel that the official cannot be left scot-free completely by setting aside the punishment orders issued by the SPOs, Anantapur. I, therefore, order that the pay of the official be reduced by one stage from Rs.1800/- to Rs.1760/- for a period of 18 months effective from 1-12-92, the date from which the order of SPOs, Anantapur in Memo.No.F-7-1/90-91/Disc. dated 30-11-92 was implemented. The punishment will not have any cumulative effect and during the period of punishment, he will not earn any increments".

8. From the above order it is evident that the appellate authority had set aside the order of R-1 due to some technical reasons i.e., R-1 <sup>was</sup> not competent to issue a major penalty. Thereafter, the R-2 on merits passed the order which is extracted above.

9. Whether the appellate authority <sup>is</sup> who set aside the order on technical reasons is competent to pass an order either confirming the orders of lower authority or modifying the order as an appellate authority is permissible or not is a point for consideration in this OA. While considering the same it is to be seen whether the principles of natural justice has been adhered to which is the back-bone in any D&A cases.

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10. The learned counsel for the respondents submits that under Rule-27 of CCS (CCA) Rules an appellate authority has powers either to modify or enhance or reduce or set aside the penalty imposed by a lower authority. Whether he can do it after setting aside the orders of the lower authority on the ground of technicality. Whether in such a situation the appellate authority should remit the case back to the lower authority for reconsideration or he himself <sup>can</sup> pass further orders.

11. We have no doubt in our mind that an appellate authority in an appeal without setting aside the orders of the lower authority on technical ground can definitely set aside the orders of the lower authority or modify the orders of the lower authority either by enhancing or reducing or confirming the order of the lower authority. But in a situation like this when the lower authority orders have been set aside on technical ground as the lower authority is incompetent to pass a major penalty passing an order by the appellate authority without remitting back to the lower authority can be considered as adequate for fulfilling the principles of natural justice.

12. When an order of the lower authority has been set aside on technical ground especially in the present case on the ground that the lower authority is not competent to pass major penalty whether it is necessary to ~~be~~ remitted back to the lower authority for consideration whether he still thinks that it is a fit case for passing major penalty. It may be possible that the lower authority may review his earlier orders and pass a minor penalty. In which case the order passed by that lower authority is in order. Alternatively, the lower authority has two options left before him. They are (a) to submit <sup>submit</sup> remit the case back to the higher authority for passing a

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major penalty order on the basis of his views and leave it to the higher authority to pass an order; (b) to pass penalty which he is competent to pass.

13. In the second alternate the applicant may gain something if that minor penalty imposed on him is not to his dis-advantage. If it is ~~submitted~~ remitted back to the higher authority for passing a major penalty then the lower authority may indicate the reasons to the higher authority as to why he feels that major penalty is necessary. In that case the appellate authority will further reconsider the issue in the light of the records available taking due note of the views of the disciplinary authority and pass an order. By that the applicant may get some relief or may not get some relief. But that is not possible if the final orders are passed without remitting the case back to the disciplinary authority.

14. We feel under the situation as explained above the applicant has got little bit of a chance to get a minor penalty even though a major penalty punishment cannot be awarded. But not remitting it back to the lower authority in the present case the leniency which may arise is denied to the applicant. In that view it is to be held that the principle of natural justice is not fully followed in this connection. How far the above view will help the applicant cannot be estimated at this juncture. It is to be seen on the basis of the orders to be passed by the competent authority.

15. The applicant if he is awarded a minor penalty, may file an appeal if he is so advised in which case the appellate authority has got every right to pass an order as deemed fit following the extant rules. If the applicant has not filed any appeal sub-moto review if warranted can be done by the higher authorities in accordance with the law and

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take suitable decision either confirming or enhancing or reducing or setting aside the orders of the lower authority. In that case the whole command of rules provided in the CCS (CCA) Rules have to be fully adhered to. By not following the above principles of remitting back the case to the disciplinary authority when the orders of the disciplinary authority was set aside on technical ground we are of the opinion that the principle of natural justice is not fully adhered to in this case. Non-adherence of the principle of natural justice goes against the very essence of the CCS (CCA) Rules. Hence, we are of the opinion that the orders of the appellate authority in so far in passing the final order of punishment which is same as that of the orders passed by the disciplinary authority has to be set aside. The setting aside of the orders of the disciplinary authority as ordered by the appellate authority remains in tact. The appellate authority may now remit this case back to the disciplinary authority for necessary orders and on that basis further action may be taken in disposing of the charge sheet issued to the applicant.

16. In the result the order of the appellate authority contained in para-5 of the impugned order No. ST-IV/13-7/97 dated 30-06-97 which is extracted above is set aside. The appellate authority is directed to remit the case back to the disciplinary authority and thereafter dispose of the charge sheet in accordance with the law. Time for Compliance is four months from the date of receipt of this judgement.

17. The OA is ordered accordingly. No costs.

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

8/3/99  
Dated: The 8th March, 1999.  
(Dictated in the Open Court)

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

spr

Copy to:

1. HONJ

26/3/99  
1ST AND 2ND COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

2. HHRP M(A)

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD.

3. HOSJP M(J)

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

4. D.R. (A)

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

5. SPARE

THE HON'BLE MR. R. RANGARAJAN :  
MEMBER (A)

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

DATED: 8/3/99

ORDER/JUDGEMENT

MA./RA./GP. NO.

IN

D.A. NO. 1377/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

7 copies

केन्द्रीय प्रशासनिक अधिकारण  
Central Administrative Tribunal  
प्रेषण / DESPATCH

17 MAR 1999

हैदराबाद न्यायपीठ  
HYDERABAD BENCH

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL: A.P. AT HYDERABAD

M.A.No.

592 OF 1998

IN

O.A.No. 1377 OF 1997

Between :-

Sri Y.Nagaraju,

..Applicant

AND

1. The Supdt.of Post Offices,  
Anantapur Division,Anantapur.

2. The Director of Postal Services,  
o/o Postmaster General,Kurnool Dn,  
Kurnool-5.

3. Union of India Represented by the  
Director General, Department of Posts,  
New Delhi - 1.

.. Respondents

MISCELLANEOUS APPLICATION UNDER SECTION 8 (3) OF C.A.T. PROCEDURAL RULES 1987

BRIEF FACTS LEADING TO THE APPLICATION :-

1. The applicant herein is also the applicant in the O.A 1377/97 relating to challenging the penalty imposed in pursuant to disciplinary proceedings.

2. On 30-11-92 the applicant was imposed with the penalty of reduction of pay of lower stage and hence challenging the same O.A 97/93 before the Hon'ble CAT, Hyderabad bench which was disposed of with a direction to appellate authority to consider the appeal. As the appeal was considered and no relief was ordered the applicant has challenged the same again by O.A.No,1377/97.

3. As the case is covered by the decision of this Hon'ble Court and this being 2<sup>nd</sup> round of litigation, Notice before Admission was ordered but even then the respondents have not filed counter. On 29-12-97 the case was admitted and directed to be listed for final hearing on 27-1-98. Though counter has been filed, the case has not been listed for final hearing.

4. As the applicant is a retired person and suffering from paralysis and not sure of surviving even for a few months from now, but more anxious over the result of the case, it is very urgent that the case is heard and disposed of by taking up forthwith. Otherwise the applicant will be put to irreparable loss and mental agony.

X Y. Nagaraju



To fix an early date

IN THE COURT OF CENTRAL/STATE  
ADMN. TRIBUNAL:A.P.AT HYDERABAD

M.A. OF 1998  
IN

O.A. No 1377 OF 1997

BETWEEN :-

Y.Nagaraju .Applicant

AND

The Supdt. of Post  
Offices, Anantapur and  
2 others. Respondents



To fix an early date for hearing

Received on  
16-7-98  
for N.V.Raghavachari

Filed on: 16 - 7-1998

Filed by:  
Krishna Devan

(Counsel for the Applicant)

16/7/98

Case No. 1377  
Date 16/7/98  
Counsel for the Applicant  
Krishna Devan

PRAYER :-

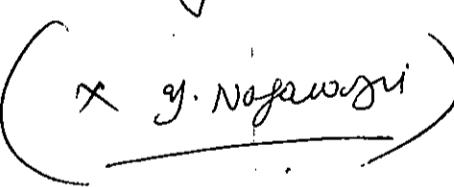
For the facts and circumstances stated above it is prayed that the Hon'ble Tribunal may be pleased to fix an early date for hearing and disposal of the case otherwise the applicant will be subjected to untold hardship and financial loss and pass such other or further orders as deem it fit and proper.

VERIFICATION :-

I, Y.Nagaraju, S/o.Y.Obanna, aged 65 years, the present miscellaneous application and the Original Application as well do hereby verify that all particulars stated above are true to the best of my knowledge and belief and hence signed this day i.e., July, 1998.

  
SIGNATURE OF THE COUNSEL

SIGNATURE OF THE APPLICANT

  
Y. Nagaraju  
(R.A.S)

M.A. no. 592/98  
in  
O.A. no: 1377/97

मूल/ORIGINAL  
BENCH CASE  
CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDER. BAD.

26/7/98

Heard Mr. Krishna Devan for  
the Applicant and Mr. N.V.  
Satyanarayana for Mr. N.V.  
Raghava Reddy for Respondent.

M.A. No.

592 of 1998

IN

O.A. No.

1377 of 1997

List this O.A. no. 1377/98  
for hearing on 20/8/98  
before admission. The  
MS is ordered accordingly.

HKN  
MSB

Expedited Petition

Mr. Krishna Devan  
COUNSEL FOR THE APPLICANT.

AND

Mr. N.V. Raghava Reddy  
Sr. ADDL. STANDING COUNSEL FOR C.G.S.  
C.G.R.L.Y.