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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A.No.1456 OF 1997.

DATE OF ORDER: 1.4.1999

BETWEEN:

S.Jaya Raju.

...Applicant

and

Union of India, represented by:

1. Chief Post Master General,
Andhra Pradesh Postal Circle,
Hyderabad.
2. Director of Postal Services,
Office of Post Master General,
Kurnool Region, Kurnool.
3. The Superintendent of Post Offices,
Kurnool Postal Division, Kurnool.

....Respondents

COUNSEL FOR THE APPLICANT :: Mr.KSR.Anjaneyulu

COUNSEL FOR THE RESPONDENTS:: Mr.V.Bhimanna

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER(ADMN)

A N D

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

: O R D E R :

(PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER(J))

Heard Mr.D.Subrahmanyam for Mr.KSR.Anjaneyulu,
learned Counsel for the Applicant and Mr.V.Bhimanna,
learned Standing Counsel for the Respondents.

The Written brief submitted by the learned Counsel
for the Respondents has been perused.

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2. This is an application under section.19 of the Administrative Tribunals Act. The application was filed on 24-10-1997.

3. The applicant herein was working as Office Assistant in Receipt and Despatch Section in the office of the Superintendent of Post Offices, Kurnool between 5-6-1989 to 23-8-1993. At that time the Department had issued an Advertisement inviting applications for filling up the post of Postal Assistant in the Division. The applicant in the first instance received the Tappals. He should have entered the Tappals in the Dak Register concerned and handed over to the/Office Assistant in the Recruitment Branch of the Office. After selection, the Department received certain complaints alleging that certain candidates had responded to the said notification and that their candidatures were not at all considered while finalising the selection process. The Department noticed that the complaints made by certain candidates were genuine. Hence, the respondent no.3 issued a major penalty Charge Memo, vide his Proceedings No.8-1/R.E./PAs/Vig./93, dated:1/2-2-1994(Annexure.3, page.57 to 60). The misconduct alleged against the applicant reads as below:-

ARTICLE-I

That the said Shri S.Jayaraju while functioning as Office Assistant in Receipt and Despatch Branch in Divisional Office, Kurnool during the period from 5-6-1989 to 23-8-1993 has done away with the application sent by Smt.Y.Nagareni sent by R.L.1523 of M.S.Nagar(KNL) dated:10-3-1993 received in the Divisional Office Kurnool on 11-8-1993 and manipulated the records to show, that the R.L. was not received in the Divisional Office and thereby failed to maintain absolute

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integrity and acted in a manner unbecoming of a Government Servant contravening the provisions of Rule-3(1)(i) and (iii) of C.C.S.(Conduct)Rules,1964.

ARTICLE-II

That the said Shri S.Jayaraju while functioning in the aforesaid office during the aforesaid period, did not hand over the application of Smt.G.Sivaprasad and Kum. M.Vijaya Nirmala received through R.Ls.224 dated:07-08-1993 of Holalagona and 3927 dated:07-08-1993 of Kurnool H.O. delivered in the Divisional Office on 10-08-1993 to Shri E.Venkatakrishnulu recruitment O.A., and thereby failed to maintain devotion to duty as required by Rule 3(1) (ii) of C.C.S.(Conduct)Rules,1964.

ARTICLE-III

That the said Shri S.Jayaraju while functioning in the aforesaid office during the aforesaid period has failed to transfer the applications of the following candidates received by him to the recruitment O.A.

1. Shri M.Nandagopal.
2. K.Srivalli Padmaja.
3. Shri Nasir Ahmed.
4. Jayanth N.M.V.R.Prasad.
5. S.Ghouse Begum.
6. S.Razia Sulthana.
7. Maheswara Reddy.
8. N.Thulasi Kumar.
9. A.Krishna Neeraj.
10. B.Raghu.
11. R.S.Sirisha.

It is, therefore, alleged that the said Shri S.Jayaraju failed to maintain devotion to duty contravening the provisions of Rule 3(1) (ii) of C.C.S(Conduct)Rules,1964.

ARTICLE-IV

That the said Shri S.Jayaraju while functioning in the aforesaid office during the aforesaid period has done away with the application which was originally received in the cover attached to the application of N.Madhavi and threw the cover loose in R and O Branch and thereby acted in a manner unbecoming of a Govt.Servant and failed to maintain absolute integrity as required by Rule 3(1)(iii) and 3(1)(i) of C.C.S.(Conduct) Rules,1964.

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4. It is submitted that the Officials incharge of the Recovery Section in the Office of the R-3 were also proceeded against. Those officials were cited as witnesses on behalf of the Disciplinary Authority to substantiate charges levelled against the applicant.

5. A detailed enquiry was conducted into the charges by the Postmaster, Head Office, Kurnool. The applicant participated in the enquiry. The Inquiry Officer submitted his report dated:21-9-1995. The Inquiry Officer recorded his findings as under:-

Charge-I proved;
Charge-II proved;
Charge-III proved; and
Charge-IV not proved.

A copy of the report of the Inquiry Officer is at Annexure.4, page.68 to 84.

6. A copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his representation dated:20-10-1995 against the findings of the Inquiry Officer. His representation is at Annexure.5, page.85 to 90.

7. The respondent no.3 considered the representation of the applicant, report of the Inquiry Officer and the enquiry records. He agreed with the findings recorded by the Inquiry Officer. The respondent no.3 by his Proceedings of even no. dated:31-10-1995, imposed the punishment on the applicant which is reproduced

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herein below:-

"I, K.Chandrasekhar, Supdt. of Post Offices, Kurnool Division, Kurnool hereby order that an amount of Rs.11,700/- be recovered from the pay of the said Shri S.Jayaraju, P.A., Kurnool H.O. in 36 instalments at @ Rs.325/- each commencing from his pay for the month of November,1995. And also order that the pay of Shri S.Jaya Raju be reduced by 13 stages from 1330/- to Rs.975/- in time scale of pay of Rs.975-25-1150-E8-30-1660 for a period of 6 years with effect from 1-11-1995. It is further directed that Shri S.Jaya Raju will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of pay."

The Order of the respondent no.3 is at Annexure.1, Page.42 to 52.

8. The applicant submitted an appeal dated:14-12-1995 against the penalty to the Director of Postal Services, office of the Postmaster General, Kurnool Region viz., the Respondent No.2. The Respondent No.2 considered the appeal and by his Proceedings No.ST-IV/13-37/95, dated: 18-10-1996, rejected the appeal and confirmed the punishment. The copy of the order passed by the Respondent No.2 is at Annexure.2, page.54 to 56.

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

"In view of the facts mentioned in para.4 above, the applicant herein humbly prays that this Hon'ble Tribunal be pleased to call for the records relating to the case and declare the order of punishment imposed by the Superintendent of Post Offices in his Memo No.B-1/RE/PAS/Vig./93-6, dated: 31-10-1995(Annexure.I, page.42) ordering recovery amount of Rs.11,500/- in 36 instalments at Rs.325/- each commencing from November,1995 and further ordering the

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reduction of pay of the applicant by 13 stages from 1330 to 975 for a period of 6 years with effect from 1-11-1995 with a stipulation that the applicant will not earn increments of pay during the period of reduction and that on the expiry of the period the reduction will have the effect of postponing the future increments of pay as confirmed by the Director of Postal Services in his Memo.No.St-IV/13-37/95, dated:18-10-1996(Annexure.2) as arbitrary based on no evidence, illegal, unsustainable in law and set aside the same and restore the pay of the applicant as on 1-11-1995 and further direct the respondents to refund the amounts recovered from the applicant from November,1995."

10. The applicant has challenged the impugned Orders on the following grounds:-

- (a) The charges were sought to be substantiated through witnesses, who were accomplices with the applicant. His protest for their examination was ignored by the Enquiry Officer.
- (b) The Complainants were not cited as witnesses to the Charge Memo. Neither the Inquiry Officer nor the Respondent No.3 applied their minds to the contentions raised by him.
- (c) In the OA Paras 4.3.7 to 4.7, page 10 to 36 contained narration, analysis, introduction of the witnesses by the respondent-authorities and the lacuna noticed by the applicant therein. It is not necessary to reproduce the said averments.
- (d) The findings of the Enquiry Officer are contrary to the facts. There was no tangible evidence to hold

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him fully guilty of misconduct. Mere suspicion is not sufficient.

(e) Inference drawn by the Inquiry Officer and the Disciplinary Authority are contrary to the evidence on record.

(f) The important documents viz., Dak Register was not produced during the enquiry. In its absence, there was nothing to show that the applicant had failed to handover the applications or else received under RL. No.224 and RL.No.3927 of dated:7-8-1993 of Holalgondi.

(g) The Recruitment Branch committed certain lapses. Hence, he cannot be penalised. The documents marked as Exhibits P.6 to P.10 were taken into consideration without examining the witnesses. The Exhibits of the statement of the witnesses who were not examined during enquiry cannot be used against him.

(h) The Disciplinary Authority mechanically adopted the findings recorded by the Inquiry Officer.

(i) The crucial documents like, Head Office copy of the special register list, delivery slip and registered abstract were not produced during enquiry. The evidence of the witnesses who were found guilty could not have been relied upon.

(j) The recovery of Rs.11,700/- from the applicant on the pretext that the Department had incurred an expenditure of Rs.33,760/- towards Advertisement in the Newspapers and Rs.15,940/- spent by the Department towards payment of stipend to the trainees whose appointments were subsequently cancelled is illegal and untenable

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(k) The procedure laid down by the DGP&T had not been followed. The applicant cannot be held responsible for not following the procedure.

(l) There was no evidence of any worth except that of the evidence of the co-accused or the accomplices; and

(m) The findings that the applicant was solely responsible for the loss of the application forms is perverse.

11. The respondents have filed their reply and pray for dismissal of the OA on the following grounds:-

(a) The applicant has not exhausted all the statutory remedies available to him under the CCS(CCA)Rules,1965.

(b) The charges levelled against the applicant were substantially proved by the documentary and oral evidence collected during enquiry. Even the evidence of the accomplices is ignored, the charges were substantiated by the other overwhelming oral and documentary evidence.

(c) The Inquiry Officer conducted the enquiry strictly adhering to the procedure laid down under the Rules,1965.

(d) The applicant was working in the Receipt and Despatch Branch of the office. His primary duty was to receive papers through the Oak and distribute the same to the concerned Section Officials. Till such time the documents received by him are expected to be under

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the custody of the applicant. When that is so, the question of entrusting the documents to his custody does not arise.

(e) The eligibility of candidates, zone of consideration, issue of check slips were prepared by the Recruitment Branch and the OPC after evaluation prepared a select panel. But the applicant being in the Receipt and Despatch Branch in the office had done away with the applications of certain eligible candidates without the same submitting to the Office Assistant in the Recruitment Branch.

(f) During the preliminary enquiry, all the relevant registers were seized. Dak Register was not available. It is stated that the Dak Register was expected to be maintained by the applicant. No benefit would have been derived by the Disciplinary Authority in misplacing the Dak Register. So misplacement of Dak Register is to the advantage of the applicant. Hence, the applicant may be responsible for the disappearance of the Dak Register. The contention of the applicant that the abstract of Head Office, Delivery Slip, the copy of the special list addressed to SPOs were not produced during the enquiry is not tenable. The ^{said} documents were not listed to the Charge Memo. Only the documents relating to the case were listed in Annexure 3 to the Charge Memo. Further, they submit that it has come to the notice that the applicant had bargained with a person promising him to get selected as Postal Assistant and got deposited



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a sum of Rs.60,000/- in a Post Office Account and he accounted for Rs.500/- only out of Rs.60,000/- and mis-utilised the balance of Rs.59,500/- for his personal use. The case is under investigation. Thus the respondents submit that the applicant was responsible for loss of certain applications of the candidates, who had applied in response to the Advertisement to fill up the post of Postal Assistant. In this background entire process of selection and deputation for training came to be cancelled. This resulted loss to the Department.

12. The first contention of the applicant is that the important document viz., Dak Register was not produced during the enquiry. No doubt in that Dak Register the applicant was expected to make endorsement and obtain signatures from the concerned Officials in the Recovery Branch or from the concerned Officer to whom the applications or documents received through Dak were handed over. That would have helped the authorities to know whether the letters indicated in the Charge Memo were received by the applicant or not. The respondents submit that during preliminary enquiry all the relevant documents were seized but they could not lay their hands on the Dak Register. The Dak Register was not traceable. The applicant during the course of the enquiry nowhere insisted upon the production of the Dak Register. On going through the Proceedings, it appears that the applicant insisted upon production of three documents. We could not make out what those three documents were.

13. Be that as it may, when he was expected to be in custody of the Dak Register, he should have stated



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as to where he had kept. Merely because the Dak Register was not produced by the Disciplinary Authority, he cannot be absolved of the misconduct.

14. As contended by the learned Counsel for the Respondents, the applicant might have caused the disappearance of the Dak Register and production of the same was to be disadvantage of the applicant. The disciplinary authority could not suppressed the same. As contended by the respondents, whenever letters are received in the office, the applicant is the custodian of those documents till he hands over them to the concerned Branch. This part of the duty of the applicant has not been disputed. When that is so, he should have subsequently stated as to how he delivered or handed over the applications/letters received to the Office Assistant in the Recovery Branch or to other Branch in the office.

15. From the preliminary enquiry conducted by the respondent-authorities, it is established that certain meritorious candidates who had responded to the notification were not selected and further their applications were not traced in the Recruitment Branch. Had the applicant established to have handed over those applications to the Recovery Branch then one could have said that there was no culpability on the part of the applicant. Further while delivery of the documents to the Recruitment Branch or to any other Branch, it appears he made certain corrections. When that is so, the Dak Register alone cannot be basis to consider the misconduct of the applicant. The other circumstances like, non-availability



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of the application forms in the Recruitment Branch etc.,.

16. The next contention of the applicant is that certain witnesses, who were in the nature of accomplices were examined and relied. That means to say, there were lapses on the part of the witnesses who deposed during the enquiry and those who were working the Recovery Branch. They were also departmentally proceeded against. They were examined in the case to prove the misconduct alleged against the applicant. Therefore, the contention of the applicant is that those witnesses could not have been examined and relied. For that he relied upon the decision of the Calcutta Bench of this Tribunal in AJIT KUMAR KHARA Vs UNION OF INDIA & OTHERS (reported in 1994(1) ATJ page.177), and ANIL KUMAR Vs PRESIDING OFFICER (reported in AIR 1985 SC Page.1121), and P.C. JAIN Vs CENTRAL BANK OF INDIA (reported in AIR 1969 SC Page.983).

17. Strict rules of evidence are not applicable to the Disciplinary Proceedings. Admission, confessions and statements of co-accused which are not admissible in the Evidence Act can be taken note of in the Disciplinary Proceedings. Rule that is to be applied in the Disciplinary Proceedings is that, an opportunity must be given to the applicant. Here the witnesses were examined. The applicant had the opportunity to cross examine them. Merely because those witnesses had committed certain misconduct while working in the Recovery Branch, their evidences cannot be discarded. The contention of the applicant, therefore, cannot be accepted.



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18. Hence, we feel no reasons to infer that inquiry was vitiated because respondent-authorities relied upon the evidence of certain officials who were in the position of accomplices.

19. Exhibits P.6 to P.9 are the statements of G.Ranganna, M.Nanda Gopal, D.Chandrenna and Ganesh. These persons have stated that they themselves or their sons had submitted their applications in response to the advertisement and that even though they or their sons had secured higher marks in the qualifying examination, they could not find place in the select panel, whereas persons who had secured less marks were figured in the panel.

20. They have narrated the circumstances under which they had sent the applications to the Department. They have produced even Postal Certificate Numbers. On the basis of the verification of those particulars, the Department during the preliminary enquiry satisfied that they had, in fact, responded to the notification. Therefore, non-examination of these persons is not a material irregularity. Accepting for a moment that those persons ought to have been examined, the nature of misconduct would not have changed.

21. The misconduct alleged against him is that he failed to hand-over the applications received to the Office Assistant of the Recovery Branch. It is not necessary for the Disciplinary Authority to examine all the applicants who had submitted their examinations to the office in Kurnool. If they examine one candidate whose candidature has not been considered by the Department is itself sufficient. In that view of the

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matter non-examination of the persons who gave statements as at Exhibits P.6 to P.9, does not in our opinion vitiated the enquiry.

22. The applicant contended that their non-examination caused injustice. If that was so, he should have himself requested the Inquiry Officer to summon them, and he could have examined them as his Defence Witnesses. If such a step was taken then the applicant could not have any grouse. Therefore, in our opinion non-examination of these persons cannot be said to be an irregularity which vitiates the Disciplinary Proceedings.

23. As contended by the respondents, the Dak Register was a material document. The applicant was the person who could have explained about the existence of the Dak Register. When he himself failed to produce the same, the Disciplinary Authority cannot be blamed for its non-production of the same during enquiry.

24. The duty to be performed by the applicant as an Assistant working in the Receipt and Despatch Branch in the office has not been disputed. When that is so, he should have placed some material to prove his innocence. For that he could have relied upon the Dak Register. The Dak Register could have enlightened the authorities as to whether the applicant had performed his duty delicately in handing over the applications received in response to the advertisement to the Office Assistant of the Recovery Branch for further processing. When that is so, the nature of charge cast a burden on the applicant to establish his innocence.



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25. The Disciplinary Proceedings is not a criminal trial where the standard of proof is beyond reasonable doubt and that the accused can keep quite leaving the entire matter to the Disciplinary Authority. The applicant must place some convincing material to hold that he is innocent of the charge. In the Disciplinary Proceedings the burden lies on the delinquent employee to establish his innocence. From the material available on record, we are convinced that the applicant had failed to handover the applications received in response to the advertisement to the Office Assistant in the Recovery Branch. Some of the witnesses who were examined during enquiry were also in the nature of accomplices is not a ground to discard their evidence. Further the applicant may have been responsible for the disappearance of the Dak Register as its production might have exposed him.

26. In this view of the matter, we find no grounds to interfere with the impugned Orders.

27. In the case of DIRECTOR GENERAL, INDIAN COUNCIL OF MEDICAL RESEARCH AND OTHERS Vs DR. ANIL KUMAR GHOSH AND ANOTHER, the Hon'ble Supreme Court after perusing the entire formal enquiry records in the said case observed as under:-

"10. The entire record of the enquiry proceedings have been placed before us. We have gone through the same and we find that there is absolutely no justification in the allegation that principles of natural justice have been violated. We have already referred to the fact that the first respondent did not furnish any list of witnesses and only in the course of enquiry, he requested the Enquiry Officer to examine the Officials of the Municipality who had issued the certificates produced by him in support of his claim of HRA. It is surprising that the High Court overlooked the simple fact that the said certificates were produced by the first respondent himself as having been issued by the high officials of the Municipality and unless the factum of such issuance was in dispute, there was no necessity to examine those officials. At another stage, the first respondent challenged the authenticity of the internal audit report and wanted the author thereof to be examined in order to substantiate the same. The Presenting Officer stated that the said report was not necessary for the case and the same was not introduced in evidence. Hence, there was no necessity to examine the



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the Accounts Officer who prepared the internal audit report. If the first respondent wanted to examine any witness on his side, he was given sufficient opportunity to produce witnesses and examine them but he did not do so. The record shows that he was permitted to reopen his defence and present further defence even on 28-3-1977. On that date as well as on 7-5-1977, he had categorically stated that he did not have any witness to be called as defence witness on his behalf."

28. In the case of STATE BANK OF PATIALA Vs. S.K.SHARMA (reported in AIR 1996, page.1669), the Hon'ble Supreme Court has laid down certain guidelines to adhere to the Principles of Natural Justice. The Hon'ble Supreme Court in para.32 has observed as under:-

"32. We may summarise the principles emerging from the above discussion. (These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee):

(1) An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court or the Tribunal should enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character.

(2) A substantive provision has normally to be complied with as explained hereinbefore and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.

(3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under 'no notice', 'no opportunity' and 'no hearing' categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced

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the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity inspite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principles stated under (4) hereinbelow is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by

him, then the Court or Tribunal should make appropriate directions (include the setting aside of the order of punishment), keeping in mind the approach adopted by the Constitution Bench in B.Karunakar, (1994 AIR SCW 1050). The ultimate test is always the same viz., test of prejudice or the test of fair hearing, as it may be called.

(5) Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice - or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action - the Court or the Tribunal should make a distinction between a total violation of natural justice (rule of audi alteram partem) and violation of a facet of the said rule, as explained in the body of the Judgment. In other words, a distinction must be made between "no opportunity" and no adequate opportunity, i.e., between "no notice"/"no hearing" and "no fair hearing". (a) In the case of former, the order passed would undoubtedly be invalid (one may call it "void" or a nullity if one chooses to). In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule (audi alteram partem). (b) But in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) has to be examined from the stand-point of prejudice; in other words, what the Court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. (It is made clear that this principle (No.5) does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.)

(6) While applying the rule of audi alteram partem (the primary principle of natural justice) the Court/Tribunal/Authority must always bear in mind the ultimate and overriding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.

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(7) There may be situations where the interests of state or public interest may call for a curtailing or the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

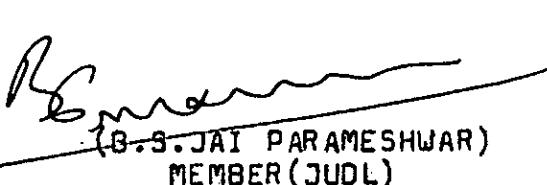
29. Further Hon'ble Supreme Court has observed that Orders of the Disciplinary Authority must not be set aside merely on technical reasons or grounds.

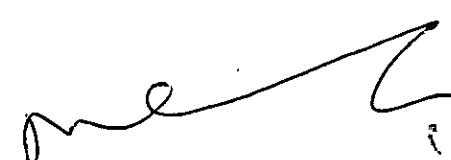
30. Coming to the punishment imposed, the applicant contended that the recovery of Rs.11,700/- ordered from him is untenable. It is for the Disciplinary Authority to impose cordign punishment after taking into consideration all the facts and circumstances of the case and also the nature of misconduct of the delinquent employee. The disciplinary authority has cancelled the selection and deputation for training. Hence, it thought fit and proper to recover the expenses incurred by the Department from the delinquent employees. Hence, the recovery is ordered from the applicant. The Court or Tribunal cannot interfere in the matter of punishment.

31. In that view of the matter, we do not wish to express anything on the punishment imposed on the applicant.

32. In view of the above, we find no merits in the OA and the OA is liable to be dismissed.

33. Accordingly, the OA is dismissed. No costs. The Enquiry Proceedingsproduced by the respondents are perused and returned.


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


(R.RANGARAJAN)
MEMBER(ADMN)

DATED: this the 1st day of April, 1999

DSN


Justice
T.S. Nair

Copy to:

1. HDHNJ
2. HHRP M(A)
3. HOSJP M(J)
4. D.R.(A)
5. SPARE

1st AND 2nd COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

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

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

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

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

DATED: 1-4-99

ORDER/ JUDGEMENT

MA./RA./CP. NO. 1456/97

IN

D.A. NO. 1456/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/ REJECTED

NO ORDER AS TO COSTS

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8 (Eight) COPIES

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
मुद्रण / DESPATCH

12 APR 1999

हैदराबाद न्यायालय
HYDERABAD BENCH

Case Law

OA 1456 of 1997

Jayaraju vs union of India

(1) 1994(1) ATJ-177

CA Teekatta

Evidence of
Co-accused is
unreliable w/o
corroboration

(2) AIR 1985 SC - 1121. Kulkarni vs President of India

(4) (1987) 2 A 1e - 205

Material document
Called by charged
officer Not supplied
inquiry initiated.

(5) 1991(1) 16 A 1e - 36

Sri Ram Singh vs U.O. I

Material witness
Not summoned
Prejudice caused.

(6) (1987) 5 A 1e - 529

Gyannidhi Sahai vs U.O. I

Reliance on evidence
for which charged
Employee has no
opportunity to
cross examine

(7) (1992) 19 A 1e - 659

Harigiri vs U.O. I

Non-oral witness
Advocate

(1991) 18 A 1e - 560

K. Kannan vs U.O. I

(1993) 23 A 1e - 893

K. K. Varachha vs U.O. I

Form No.9.
(See Rule 29)

BY.R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
1st Floor, HAC Bhavan, Opp: Public Garden, Hyderabad. 500004. A.P.

ORIGINAL APPLICATION NO. 1456 OF 1997.

Applicant(s) S.Jaya Raju.

V/S

Respondent(s)

By Advocate Shri:

K.S.R.Anjeneyulu.

The Chief Post Master General, A.P.
Postal Circle, Hyderabad. & others.

(By/Central Govt. Standing Counsel)

To.

Mr.V.Bhimanna.Addl.CGSC.

1. The Chief Post Master General, Andhra Pradesh Postal Circle, Hyderabad.
2. The Director of Postal Services, Office of Post Master General, Kurnool Region, Kurnool.
3. The Superintendent of Post Offices, Kurnool Postal Division, Kurnool.

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunal Act, 1985 as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has admitted the application.

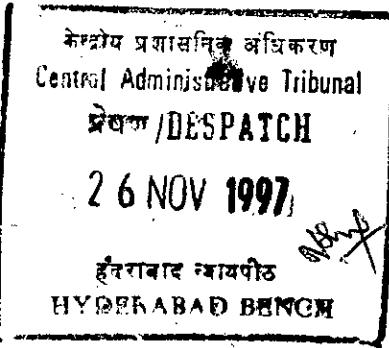
Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal practitioner within 30 days of receipt of the notice before this Tribunal, either in person or through a Legal practitioner/ Presenting Officer appointed by you in this behalf. In default, the said application may be heard and decided in your absence on or after that date without any further Notice.

Issued under my hand and the seal of the Tribunal
Third. November.
This the day of 1997.

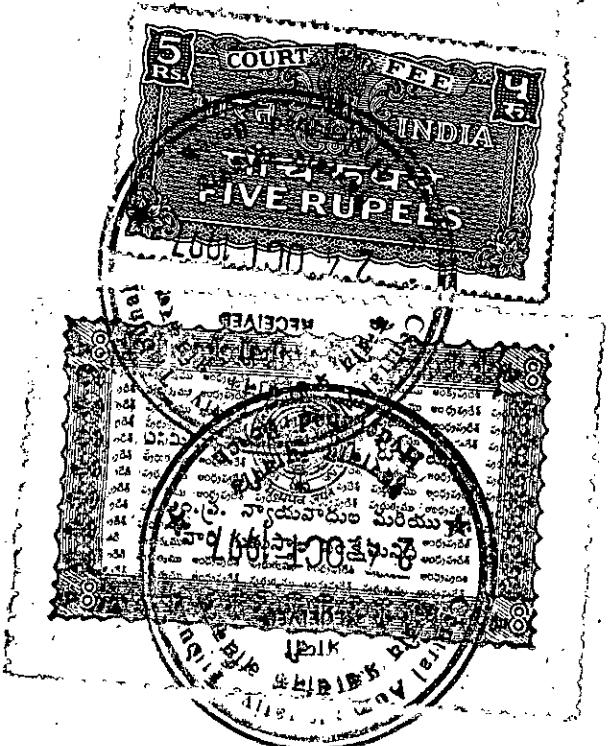
//BY ORDER OF THE TRIBUNAL//

Date: 12-11-97.

FOR REGISTRAR.



13/11/97



Central Administrative Tribunal :
Hyderabad Bench at Hyderabad

O A No.

of 1997

Between

S. Jayarani

AND

NOT reply clist post master
General A. P. Circle and 20th

VAKALAT

ACCEPTED

Subrahmanyam
Subrahmanyam & Co.,
ADVOCATES FOR APPLICANT / RESPONDENT

Address of Service :

Phones : 7617006
7601284

**K. S. R. ANJANEYULU
D. SUBRAHMANYAM**
ADVOCATES

1-1-365/A, Jawaharnagar, (5th Street)
Bakaram, Hyderabad - 500 020.

In the Central Administrative Tribunal: Hyderabad Bench
at Hyderabad

O A No. 1456 of 1997

S. Jayaraju

Applicant

VERSUS

U.O.I. referee, Chintpochamakerevuru Respondent
A.P. Circle Hyderabad and other

We

Applicant

In the above Application do hereby appoint and retain

K. S. R. ANJANEYULU
ADVOCATE

and

D SUBRAHMANYAM
ADVOCATE

Advocate/s of the High Court to appear for Me/Us in the above Application and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including applications for return of documents or the receipt of any money that may be payable to Me/Us in the said Application and also to appear in all appeals, and applications under clause XV of the Letters Patent and in applications for review and for leave to appeal to the Supreme Court.

(S. Jayaraju)



I certify that the contents of the this Vakalat were read out and explained in in my presence to the executant, or executants who appeered perfectly to understand the same and made his, or her or their signature or mark or marks in my presence.

Executed before me this

22 day of Oct 1997

*finished
Srinivas Advocate*

On the CAF, Head

O.A. no: 1456 of 97

Memo of Appearance

Filed by

V. Raghunatha,
Asstt C.R.A



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH

AT HYDERABAD

O.A. No. 1456 of 97

M.M.O. OF APPARANCE

Between :

S. Jayaram

Applicant(s)

And

Chief Postmaster General,
AP Circle, Hyderabad

Respondent(s)

To

The Registrar,
central Administrative Tribunal
Hyderabad Bench,
H Y D E R A B A D

Sir,

I, V. BHIMAIINA, Advocate, having been authorized
by the Central Government, notified under Section - 14 of
the Administrative Tribunals Act 1985, hereby appear for the
Respondents and undertake to plead and act for them in all
matters in the above said case.

Hyderabad,

Dated : 9-3-97

U. Bhimaiina

Signature of the Counsel
Addl. CGC/SC for Railways

Address of the Counsel :

203, Renuka Shakti Apartments,
King Koti Road,
Bashirbagh,
HYDERABAD - 500 029

