

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1075/99

dt.17-1-2001

Between

P. Manohar Rao

: Applicant

and

1. Postmaster General
Hyderabad Region, Hyderabad

2. Director Postal Services
O/o Postmaster General
Hyderabad Region
Hyderabad

3. Supdt. of Post Offices
Medak Division
Medak

4. Asstt. Supdt. of Post Offices
Headquarters, Medak : Respondents

Counsel for the applicant : P. Kishore Rao
Advocate

Counsel for the respondents : P. Phalguni Rao
CGSC

Coram

Hon. Mr. Justice V. Rajagopala Reddy, VC

Hon. Mr. M.V. Natarajan, Member (Admn.)

C.R.

Order

Oral order (per Hon. Mr. Justice V. Rajagopala Reddy, VC)

Heard Mr. P. Naveen Rao for Mr. P. Kishore Rao for the applicant and Mr. P. Phalguna Rao for the respondents.

2. While the applicant Mr. P. Manohara Rao was working as EDBPM, he was served with a charge memo dated 12-1-96 proposing to take disciplinary action on the following two Articles of Charge:

Article-I :

That Sri P. Manohar Rao, while functioning as EDBPM, Bonal BO a/w Makkarajpet SO during the period from 3-3-94 to 7-3-1994 has failed to effect payment of Gandigunj, Nizamabad, MO No.2975/21 dated 19-Q2-94 for Rs.697/- to the correct payee. Thus the said BPM acted in contravention of Rule 10 of BO Rules and thereby failed to maintain absolute integrity and devotion to duty as required of him by Rule 17 of P&T EDAs (C&S) Rules, 1964.

Article-II :

That the said Sri P. Manohar Rao, while working in the aforesaid capacity during the aforesaid period had failed to effect payment of Gandhigunj, Nizamabad MO NO.2975/15 dated 19-2-94 for Rs.244/- payable to Smt. Bojja Durgavva w/o Kistagoud, resident of Kalvakunta in violation of Rule 10 of BO rules and thereby exhibited lack of absolute integrity and devotion to duty as envisaged in Rule 17 of P&T EDAs (C&S) Rules, 1964.

3. Since he denied the charge, an inquiry has been held by appointing an Inquiry Officer and the Inquiry Officer after the inquiry submitted his report to the Disciplinary authority. He found that Article 1 has been proved whereas Article 2 was partly proved. The Disciplinary authority agreed with the findings of the inquiry officer in regard to Article 1 and disagreed in respect of Article 2 and awarded punishment of removal, by the impugned order dated 12-1-1996. The Appellate authority as well as the Revisional authority confirmed the order of the Disciplinary authority.

ORR

4. This OA is brought challenging the order awarding punishment. The learned counsel for the applicant contends that there is practically no evidence in the case in support of the charges. It is ~~therefore~~ contended that the Disciplinary authority having disagreed with the findings of the Inquiry officer in respect of Article 2 ought to have afforded an opportunity to the applicant to explain reasons for disagreement. This procedure has not been adopted. [↓] ~~before~~ and the Disciplinary authority passed the impugned order. Hence the order is vitiated. It is further contended that the disciplinary authority having found that the amount of MO has been paid to the payee erred in holding that Article 2 was also established.

5. The learned counsel for the respondents, however, submits that there is ~~an~~ ample evidence in the case in support of the charges and both the charges are found established by the Disciplinary authority. He also contends that there is no procedural irregularity in conducting the inquiry.

6. We have given careful consideration to ~~the~~ contentions raised and to the pleadings in the case.

7. In the first article of charge it is alleged that the applicant had failed to effect payment to the correct payee. It is not in dispute that the MO was payable to one Smt. Talarai Narasavva but it was not paid to her as she died one year prior to the date of the alleged payment. The plea of the applicant was that the money was in fact paid to her and she died three days thereafter. On this question evidence has been led in the inquiry and the inquiry

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officer as well as the Disciplinary authority came to the conclusion that the death of Narasavva occurred in the year 1993.

8. The learned counsel for the applicant contends that there is no evidence to show the actual date of death of Narasavva and hence it should be held that the finding is without evidence.

9. We do not agree. In the inquiry the husband of Talari Narasavva has been examined and his case was that his wife died one year prior to 12-3-1994 the date of money order. Two other witnesses were also examined who also corroborated the evidence of PW-5. On the basis of the oral evidence it was found that the death of the payee occurred in 1993. It is not required in all cases to establish the date of death on the basis of documentary evidence. Infact, in villages death certificate may not be available. The date of death however can be established by oral evidence. It should be kept in mind that the Tribunal in the exercise of judicial review jurisdiction will not normally interfere with the findings of the Inquiry Officer or the Disciplinary authority unless ^{in a} ~~in~~ a case of no evidence. We are of the view that there is sufficient evidence on record in support of the finding as to the date of death. Hence, we hold that the first Article of charge has been rightly held as established by the Disciplinary authority.

10. We do not, however, agree, as regards the second article of charge which the Disciplinary authority found fully proved. The gravamen of the second charge is only that the applicant had not effected payment to Durgavva, the payee under money order dated 9-2-1994 for Rs.244/-.

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..4.

11. A perusal of the order of the Disciplinary authority makes it abundantly clear that the Disciplinary authority after discussion of the evidence and findings of the inquiry officer has come to the conclusion...

"Hence, I hold that the later version that the payment was effected by G.S. to PW-4 through PW-3 at Kalvakunta is more probable and stands to reason."

12. PW-4 is the payee under the money order. Thus it was proved on the basis of the evidence on record that the applicant had paid the amount to the payee. But it is argued by the learned counsel for the respondents that as the money order was paid to the PW-4 through PW-3 it should be held that the payment was in violation of rules.

13. This is not a case where any complaint was made by PW-4 that money was not paid to her. It is not disputed that infact the money was paid to the payee PW-4.

14. Since the gravamen of the charge as stated supra bing that the money was not paid to the PW-4 it has to be held that the charge was not established. Though the same was paid through PW-4 the Disciplinary authority was, however, of the view that as the applicant went beyond his jurisdiction to pay the same to the payee instead of returning the MO to the Head office, he showed undue interest in payment of amount to the payee. This allegation does not form part of the charge. It is not very relevant for the purpose of holding that the applicant was guilty of Article II of the charge. When once the amount was shown to have been paid to the payee, the applicant should be exonerated of this Article of charge. Hence, we are of the view that Article II of the charge was not established.

15. In view of the findings given above, we do not propose to go into other contentions advanced by the

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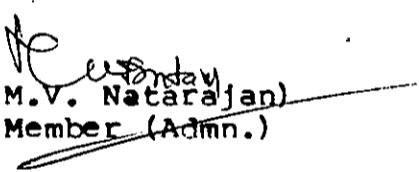
learned counsel for the applicant.

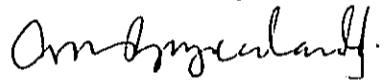
16. As the punishment was awarded on the finding that both the Articles of charge ^{✓ A2} were proved, the impugned order of Disciplinary Authority, Appellate and Revisional Authorities are quashed.

17. In the result the matter is remanded to the Disciplinary authority for passing fresh order treating that only Article-I of the charge has been proved and that Article-II of the charge is not proved. The Disciplinary authority is directed to pass appropriate order within three months from the date of receipt of a copy of this order.

18. The OA partly succeeds and is accordingly allowed.

In the circumstances we do not order costs.


(M.V. Natarajan)
Member (Admn.)


Q.V. Rajagopala Reddy
Vice Chairman

Dated : 17 January 2001
Dictated in Open Court

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYD BENCH:HYDERABAD

COPY TO

1ST AND 2ND COURT

1. HVRGRO ✓
2. H3SDPMMR (JUDL)
3. HMVN MEMBER : (ADMIN)
4. D.T. (ADMIN) ✓
5. SPARE ✓
6. ADV.CATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR JUSTICE V.RAJA GOPAL REDDY
VICE-CHIEF JUDGE
THE HON'BLE MR GS.JAI PARAMESHWAR
MEMBER (JUDL).
THE HON'BLE MR RV.NATARAJAN
MEMBER : (ADMIN)

DATE OF ORDER: 17/1/2001

MA/RAT/CP.HD:
IN
CA. NO : 1075/99 (9 copies)

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~ ✓

~~C.P. CLOSED~~

~~R.A. CLOSED~~

~~DISP S.D. OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDER/REJECTED~~

~~NO ORDER AS TO COSTS~~

