

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.No.24 of 1999.

DATE OF ORDER:21-12-1999.

BETWEEN:

K.Rajaiah.

...Applicant

a n d

Superintendent of Post Offices,
Peddapalli Division, Peddapalli.

...Respondent

COUNSEL FOR THE APPLICANT :: Mr.S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENT :: Mr.P.Phalguna Rao

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

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

: O R D E R :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.S.Ramakrishna Rao, learned Counsel
for the Applicant and Mr.P.Phalguna Rao, learned Standing
Counsel for the Respondent. .

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2. The applicant in this OA was provisionally appointed in the place of a removed regular EDBPM with effect from 7-10-1997. Earlier also the applicant worked as EDBPM when the regular incumbent was put-off duty with effect from 3-8-1994 upto 4-9-1995 when the regular incumbent was reinstated.

3. The applicant while working as provisional EDBPM committed certain irregularities by way of misappropriation of an amount of Rs.750/- infringing the provisions of Rule 131, 131(2), (3), 174, 175 of book of BO Rules. So he was issued with a Show Cause Notice bearing Memo No.L/Misc/98, dated 11-11-1998 (Annexure.A-II, page 10 to the OA). The applicant submitted his reply to the Show Cause Notice on 4-12-1998. Subsequently his services were terminated on 7-1-1999. A notification bearing Memo No.B2/Julapalli/98, dated 23-11-1998, (Annexure.A-I, page 7 to the OA) was issued.

4. This OA is filed to set aside the Show Cause Notice No.L/Misc./98, dated 11-11-1998 issued without Charge Memo and the consequential notification No.B2/341/98, dated 23-11-1998, calling for applications for the post of EDBPM, Julapalli, when the appeal of the earlier incumbent (EDBPM removed) is pending, declaring the same as arbitrary, illegal, unwarranted and violative of Articles 14 and 16 of the Constitution.

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5. An Interim Order was passed on 7-1-1999, which reads as follows:-

"2. So far as the Interim direction sought for by the applicant is concerned, I believe that it would not be in the interest of justice to stall the proceedings taken in pursuance of the notification for appointment of EDBPM on regular basis. However, appointment made, if any, in pursuance to the said notification shall be subject to the result of this OA. The respondents are further directed to bring it to the notice of the new incumbent that his appointment is subject to the result of this OA. Post on 22-2-99."

6. In the reply it is stated that the applicant misappropriated an amount to the extent of Rs.750/- and failed to adhere to the rules. Further the applicant being a provisional EDBPM, he was issued with a Show Cause Notice on that basis. On obtaining reply from him his services were terminated by Order issued on 7-1-1999. The regular incumbent of that Post Office submitted his appeal, which was disposed of by DPS, O/o PMG, Hyderabad Regional, Hyderabad, vide Memo No.ST/21-4/10/97, dated 9-11-1998. The notification was issued only on 23-11-1998 after the appeal has been disposed of fixing the last date of receipt of applications as 24-12-1998. Hence, the OA is liable only to be dismissed.

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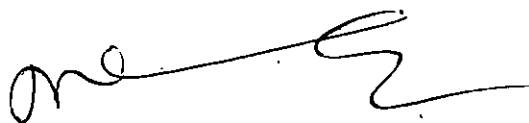
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7. The applicant is a provisional EDBPM. He has been given full opportunity to explain his conduct by issue of the Show Cause Notice dated 11-11-1998. The applicant is not a regular candidate. Hence, neither Rule (6) or (8) of ED Service Rules applies here. The only point to be seen is whether Principles of Natural Justice has been followed before terminating ^{the} services of the applicant. For that the respondents have issued the Show Cause Notice and obtained applicant's explanation. That would meet the ends of justice in fulfilling the object to be achieved in following the Principles of Natural Justice. Even as a provisional EDBPM if he is going to misappropriate certain amount, it cannot be said that he will be a faithful employee of the Postal Department. Further it is to be noted that the applicant has not given any satisfactory reply to the Show Cause Notice. Considering all these points only the appropriate authority had terminated his services with effect from 7-1-1999. We do not find any irregularities in terminating the services of the applicant herein. Hence, the applicant cannot question his termination order.

8. While issuing the notification dated 23-11-1998, the respondents have taken care to see that ^{the} ~~his~~ ^{the regular incumbent} appeal is disposed of before that date. The reply clearly states that his appeal was disposed of on 9-11-1998 and then only on 23-11-1998 a notification for filling up that post regularly was issued. Hence, the respondents have fully followed the rules in issuing the notification dated 23-11-1998 i.e., after the completion of the Disciplinary Proceedings pending against the regular incumbent of that Post Office. The applicant submits that the regular

incumbent had filed a Revision Petition. Normally a Disciplinary Proceeding ends with the disposal of the appeal. Had he submitted his Revision Petition earlier to the notification dated 23-11-1998, some credence can be given to the submission of the applicant. We do not find any Revision Petition filed by the regular incumbent. Hence, we do not find any irregularity in issuing the notification for filling up that post regularly on 23-11-1998 after the disposal of his appeal dated 9-11-1998.

9. In view of that, we find no merit in this OA. Hence, the OA is dismissed. No costs.



(R. RANGARAJAN)
MEMBER (ADMN.)



(D. H. NASIR)
VICE CHAIRMAN

DATED: this the 21st day of December, 1999

Dictated in Open Court

DSN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH.
HYDERABAD.

1ST AND 2ND COURT

COPY TO.

1. HON'G
2. HRRN M (ADMN)
3. HOSOP.M. (JUDL)
4. D.R. (ADMN)
5. SPARE
6. ADV' CATE
7. STANDING COUNSEL

TYPED BY
COMPALED BY

CHECKED BY
APPROVED BY

7/1/2000

THE HON'BLE MR. JUSTICE DH. NASIR
VICE-CH. IRMAN

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

THE HON'BLE MR. S. S. JAI PARAMESHWAR
MEMBER (JUDL)

DATE OF ORDER

21/12/00

MA/RA/CP.NO.

IN
CA.NO.

24/00

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

5 copies

