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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

No. O.A.252/1999

DATE OF ORDER : 14.3.2000

BETWEEN :

T.Satyana^rayana S/o T.Buchiramaiah
aged about 43 years, working as Sr.
Accountant in the Office of the Director
of Accounts (Postal), Andhra Circle,
Dak Sadan, Abids, Hyderabad-500 001.

... Applicant

AND

1. Union of India through the Secretary,
Department of Posts and D.G. Posts,
Dak Bhawan, Parliament Street,
New Delhi-110 001.
2. The Chief Postmaster General,
Andhra Circle, Dak Sadan,
Abids, Hyderabad.
3. The Director of Accounts (Postal),
Andhra Circle, Abids, Hyderabad-500 001.

... Respondents

Counsel for the applicant : Mr.B.S.A.Sathyana^rayana.

Counsel for the respondents : Mr.B.Narasimha Sharma, Sr.Standing
Counsel.

CORAM :

The Hon'ble Mr.R.Rangarajan, Member (A).

The Hon'ble Mr.B.S.Jai Parameshwar, Member (J).

O R D E R

R.Rangarajan, Member (A)

Heard Mr.B.S.A.Sathyana^rayana, the 1st.counsel for the
applicant and Mr.B.Narasimha Sharma, Sr.Standing Counsel for
the respondents.

2. The applicant was working as Senior Accountant in the
Office of the Director of Accounts (Postal), Andhra Circle,
Dak Sadan, Abids, Hyderabad. He was issued a charge memo
dated 29.5.1991 (annexure A/1 to the O.A.). The said charge

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memo was issued by the Director of Accounts (Postal), Andhra Circle Hyderabad. An enquiry was conducted on the charge memo and the inquiry officer held all the charges as not proved except charge nos. 1 and 2. The applicant submitted his defence statement on 27th January, 1995 (annexure 'A/3' to the O.A.) based on the inquiry report. Res. 3 passed the impugned punishment order which reads as below -

"I, B.V.Sudhakar, Director of Accounts (Postal), Hyderabad, would like to give an opportunity to the charged official to turn to a new leaf in his official career by imposing a lenient punishment. It is, therefore, ordered that the pay of Shri T.Satyanarayana, Senior Accountant be reduced by one stage from Rs.1800 to Rs.1750 in the scale of Rs.1400-40-1600-50-2300-EB-60-2600 for a period of one year with immediate effect. It is further directed that Shri T.Satyanarayana, Senior Accountant will not earn increments of pay during the period of reduction and that on expiry of this period the reduction will have the effect of postponing his future increments of pay."

Against that order, the applicant filed an appeal dated 27.6.1996 addressed to the Chief Postmaster General (Res.2). That appeal was disposed of by the impugned order dated 4.12.1996 (annexure A/6 to the O.A.), confirming the orders of the disciplinary authority.

3. The applicant filed a ^{Review} petition dated 17.2.1997 (annexure 'A/7' to the O.A.), for reviewing the punishment passed by the disciplinary and appellate authority. That review petition was disposed of by the impugned order dated 18.5.1998 (annexure 'A/8' at page 112 of the O.A.). Para 5 of the said order is relevant to the case. It reads as follows -

"The second plea of the petitioner is technically correct in as much as it requires that the common proceedings should be initiated by the President or any other authority competent to impose the penalty of dismissal from service of all such Government servants. In this case the appointing authority of one of the officials is stated to be AG P&T, Shimla, and it is a fact that the disciplinary authority who made the order was lower in rank to the AG P&T. However, as a result of this, no disadvantage or denial of justice has been caused to the petitioner and therefore, no intervention is called for."

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4. This O.A. is filed to set aside the impugned orders dated 18.5.1998 of R.1, 4.12.1996 of R.2, 15.5.1996 of R.3 and for the consequential direction to the respondents to restore the applicant to the stage of pay before imposing the said penalty with all consequential benefits.

5. The applicant made 2 main contentions. They are -

(i) The reviewing authority himself had accepted that the common proceeding should ^{have} been initiated by the President or by any other authority competent to impose the penalty of dismissal from service of all such Govt. servants.

In the present case, the appointing authority was another official when the common enquiry proceeding was initiated ^{the appointing Authority} who is stated to be the AG R&T..., Shimla, and it is accepted by the respondent-authorities that the disciplinary authority who made the order was lower in rank. However, that point was not considered by the ^{revisionary} reviewing authority on the ground ^{was} that no prejudice ^{is} caused to the applicant for non-consideration of that very relevant point.

We agree with the 1st counsel for the applicant. When some procedural irregularity is committed, it is to be seen whether that irregularity has affected the fortune of the employee or not.

Merely saying that it has not caused any disadvantage, is no reason to ^{ignore} ~~delete~~ that point. Hence, we are of the opinion the ^{must} reviewing authority ^{should} necessarily examine this point once again and came to a decisive conclusion on the basis of the report and other connected documents to state whether that contention has to be accepted or not to be accepted.

(ii) The second main contention of the applicant is that R.3 was allegedly gheraoed by the official. If that be the case, the principles of natural justice demands that the said official should not have initiated the disciplinary proceedings. It should have been done by someone else.

6. When we enquired from the 1st counsel for the applicant as to why he has not taken up with the higher authorities, namely, the PMG, if he is of the opinion that initiation of disciplinary

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proceedings by R.3 is not in order, he submits that he has made this point in his defence statement in the enquiry. But the applicant does not appear to have taken this to the Judicial Forum if he is aggrieved by the same. Hence, if the applicant now complains that principles of natural justice has not been followed, he ~~did not~~ ^{failed to} take any action at the appropriate time. However, this point may also be considered by the ^{reviewing} authority in accordance with the rules based on records available with him.

7. In view of what has been stated above, we do not consider at the present juncture to pass any order on ~~merit~~ as we are of the opinion that the order of the ^{Primary} reviewing authority dated 18.5.1998 needs to be reviewed. Hence the following directions are given -

- (i) The impugned order of the ^{Primary} reviewing authority i.e. R.1 dated 18.5.1998 is hereby set aside.
- (ii) The case is remitted back to the Member (Personnel), Postal Services Board, for reviewing his order on the basis of the observations made as above.
- (iii) A final decision to be taken by the Member (Personnel) within a period of two months from the date of receipt of a copy of this order.
- (iv) The applicant, if so advised, may submit a detailed ^{similar} petition in addition to what he has already submitted, within a period of 1 week from today.

8. The O.A. is ordered accordingly. No costs.


 (B.S. Jai Parameshwar)
 Member (J)
 14/3/00


 (R. Rangarajan)
 Member (A)

Dictated in open Court.

Dated 14th March, 2000.

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r.s.