

85

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.493/99.

Date of Order :- 24-7-2000.

Between :

T. Karunamurthy, s/o T.N.Tangavelu Applicant

A n d

1. The Director General,
Posts, Dakatar Bhavan,
Parliament Street,
New Delhi-1.
2. The Postmaster General,
Kurnool Region, Kurnool.
3. The Director of Postal Services,
Kurnool Region, Kurnool.
4. The Sr.Superintendent of Post
Offices, Chittoor Division,
Chittoor.
5. Elumalai, s/o not known,
Extra Departmental Sub-Postmaster,
(ED/SPM), Chittoor Sugar Factory
EDSO, Chittoor. ... Respondents

Counsel for the Applicant : Mr. S. Rakamrishna Rao

Counsel for the Respondents : Mr. B.N.Sarma, Sr.CGSC

Coram :

The Honourable Mr. Justice D.H. Nasir, Vice-Chairman.

The Honourable Mr.R.Rangarajan, Member(A)

O R D E R.

Justice D.H.Nasir, VC :

1. By Memo dated 25.9.1990 of the third respondent a punishment was imposed on the applicant removing him from service. The same was confirmed by respondent No.2 vide his Memo dated 10.7.1991 and reconfirmed by the appellate authority by Memo dated 5.1.1999 of the first respondent. All the said three Memos are sought to be set aside in this O.A. mainly on the ground that the inquiry was conducted in the absence of the applicant without affording reasonable opportunity of being heard. The respondents are also sought

to be directed to reinstate the applicant in service with all consequential benefits.

2. According to the applicant, all the aforesaid three Memos. are liable to be quashed and set aside mainly on the ground that the punishment was imposed without conducting a regular enquiry and without affording the applicant a reasonable opportunity to defend himself of the charges levelled against him.

3. According to the applicant, he was appointed as Extra-Departmental Sub-Postmaster, Chittoor Sugar Factory at Chittoor on 27.11.1975. He was put off duty by the Assistant Superintendent of Post Offices, Chittoor, North Sub-Division on 16.5.1990 which was ratified by the third respondent. The orders, however, did not disclose any reason for placing the applicant under suspension except mentioning "pending enquiry".

4. The applicant further states in para-3 of his O.A. that the Assistant Superintendent after putting off the applicant from duty obtained two statements from the applicant regarding Savings Bank transactions which the applicant could not deny as the Assistant Superintendent was an officer in authority. The third respondent thereafter issued charge sheet to the applicant by his Memo. dated 9.8.1990 levelling the following charges :

- (1) That the applicant accepted Rs.1750/- comprising 7 monthly deposits of Rs.250/- each between 30.10.1989 and 24.9.1990, made necessary entries in the Pass Book of RD A/c No.28794 and failed to credit the amount into post office account.
- (2) That the applicant accepted Rs.900/- comprising 9 monthly deposits of Rs.100 each between 11.8.1989 and 12.4.1990, made necessary entries in the Pass Book of RD A/c. No.28792 and failed to credit the amount into post office account.
- (3) That the applicant accepted Rs.100/- being the monthly deposit on 10.5.1990, made necessary entries in the pass book of CTD A/c No.88014 and failed to credit the amount into post office account.
- (4) That the applicant accepted a deposit of Rs.2750/- on 10.5.1990, made necessary entries in the pass book of SB A/c No.1930/56 and failed to credit the amount into the post office account.

(w)

It is further stated in the OA that the charge memo. allowed the applicant ten days' time to admit or deny each charge with a stipulation that the proposed inquiry would be held in respect of those charges which are not admitted.

5. Further according to the applicant, he being an E.D. Agent not having adequate knowledge of disciplinary rules or procedure could not find readily some one to assist him in preparing his defence and therefore, he could not reply to the charge sheet within the prescribed time. The proposed inquiry, however, according to the applicant, was not held for about 25 days. However, with the obvious intention of dispensing with the inquiry the applicant was called upon to the office of the third respondent on 5.9.1990. The applicant further alleges that "he was overwhelmed to sign representations to the charge Memo with some incriminatory statements" being lured by the assurance of lenient treatment. The third respondent thereafter passed the final orders on 25.9.1990 removing the applicant from service on the ground that the applicant admitted the charges.

6. On the basis of the above pleadings itself, the O.A. could be straight-away decided by holding that the charges levelled against the applicant were admitted by the applicant and in that situation the Tribunal need not interfere with the orders passed by the respondents. The applicant at no stage prior to this O.A. retracted the confessional statements nor did he plead that the alleged confessional statements were obtained from him under duress or coercion. The necessity of dispensing with the inquiry in the event of the delinquent admitting the charges has been clearly laid down in the Discipline and Appeal Rules, and therefore, not holding the inquiry cannot be lawfully invoked by the applicant in support of his contention that the impugned orders removing him from service were illegal or void. The Reviewing Authority while rejecting the applicant's review petition observed as follows :

" I am satisfied that the quantum of punishment imposed by the Disciplinary authority and upheld by the appellate authority for proved misconduct impinging on the integrity of the petitioner by his own admission and material available before me is not harsh. "

In the answer to the above observation, the applicant states in the concluding part of para-5 (4) of his O.A. as under :

" Whenever be the material available before the authority, other than the applicant's admission, that it considered to reach an adverse findings, the applicant had no information of or access to it in the course of the proceedings. The finding of guilt reached on extraneous material that was not made available to the applicant is liable to be set aside."

7. It is pertinent to note that the respondents in their reply statement have contended in para-8 that the charge sheet issued on 9.8.1990 was received by the applicant on 14.8.1990. The time of 10 days granted to him for submitting his defence statement was to expire by 24.8.1990. The applicant gave a letter on 22.8.1990 requesting for grant of extension of time for submitting his written defence, the applicant's request was conceded to and the applicant again gave another letter in person on 3.9.1990 seeking further 10 days time for submitting his written defence, which was also conceded to by the respondents with a caution that no further extension of time would be allowed. Enough time was given, according to the respondents, to the charged official to prepare his defence. But the applicant failed to take advantage of the extension granted to him.

8. In para-8(ii) of the reply statement it is stated that the applicant had tendered two typed letters in English

cc

duly signed by him in the office in person on 5.9.1990 clearly admitting the charges levelled against him and requesting that no enquiry need be conducted in this regard by another letter. Copies of these letters are produced by the respondents along with their reply statement. The applicant's version that he was called to the office and was overwhelmed to sign the representations to the charge memo with incriminatory statements on the promise of lenient treatment is denied by the respondents in para-8 of the reply affidavit.

9. In para-13 of the reply statement it is stated that the inquiry was not conducted in view of the admission of all the charges by the applicant as envisaged in D.Gs instruction No.9 under Rule 8 of P&T EDAs C&S Rules, 1964.

10. The submission made on behalf of the respondents that the applicant asked for extension of time to submit his defence twice is sufficiently substantiated by the applicant's letters dated 22.8.1990 and 3.9.1990 copies of which have been produced by the respondents as Annexures-R.1 & R.2 to the reply affidavit. This has not been disclaimed by the applicant and therefore it does not lie in the mouth of the applicant that reasonable opportunity was not given to him for submitting his defence.

11. With the above fact-situation in view and the proposition of law that the confessional statements if made by the delinquent can safely be used for holding the delinquent guilty of misconduct alleged against him, we have already observed earlier that the applicant at no point of time before filing the present O.A. retracted his confessional statements nor did he make any specific allegation against any particular officer of the respondent-Department that his confessional statements were recorded under duress or coercion or that any undue influence was

exercised on him which ^{induced} prompted him to give the confessional statements. This situation predominantly goes against the applicant without being materially contradicted in any manner before initiating the present proceeding.

12. We are also not inclined to agree with the submission of the learned counsel Mr. Ramakrishna Rao for the applicant that the punishment was grossly disproportionate to the misconduct alleged against the applicant. In our opinion, the misconduct committed by the applicant was of a very serious nature and no lenient view could be taken in such a case involving moral turpitude. No ground exists for accepting the submission made by the learned counsel that the punishment of removal from service was disproportionate to the gravity of the misconduct.

13. Hence the O.A. deserves to be dismissed and it is hereby dismissed. No costs.

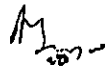


(R.RANGARAJAN)
MEMBER (A)



(D. H. NASIR)
VICE-CHAIRMAN

Dated the 24th day of July, 2000.



DJ/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:HYDERABAD

COPY TO:-

1ST AND 2ND COURT

1. HDND
2. HARN (ADMN) MEMBER
3. HBSOP (JUDL) MEMBER
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

THE HON'BLE MR. JUSTICE DH. NASIR
VICE - CHAIRMAN

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

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

DATE OF ORDER

24/7/00

~~MA/9A/CP.NO~~

IN

OA. NO.

493/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

~~DISMISSED~~

DISMISSED AS WITHDRAWN

ORDER REJECTED

NO ORDER AS TO COSTS

