

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.290/99.Dt. of Decision : 16-07-99.

J.Santha Moorthy

..Applicant.

Vs

1. The Union of India,
Min. of Defence, Rep.
by the Secretary, New Delhi.
2. The Dy. Director General and
Disciplinary Authority,
Ordnance Factory Board,
Armoured Vehicles Head Quarters,
Avadi, Chennai-600 054.
3. The Ordnance Factory Project,
Yedumailaram-502 205,
Medak District
Rep. by General Manager

.. Respondents.

Counsel for the applicant : Mr.B.Nalin Kumar

Counsel for the respondents. : Mr.V.Rajeswara Rao, Addl.CGSC.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.))

Heard Mr.B.Nalin Kumar, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. This OA came up for hearing when the respondents filed MA.331/99 for vacating the interim order dated 23-2-99. With the consent of both the learned counsels we are deciding this OA on merits itself.

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3. The applicant was involved in C.C.No.296/96 on the file of the Additional Judicial I Class Magistrate at Sangareddy. In the said criminal case the applicant was convicted by the Court as per its Judgement dated 7-12-98.

4. Against the said judgement the applicant preferred an appeal before the Sessions Judge, Medak at Sangareddy in Criminal Appeal No.165/98 and in the said criminal appeal he had moved Criminal M.P.No.1528/98 praying for suspension of the conviction as well as sentence passed by the trial court. Accordingly, the Sessions Judge Medak at Sangareddy had suspended by its order dated 24-12-98 both the conviction as well as the sentence imposed by the Additional Judicial I Class Magistrate at Sangareddy in C.C.No.296/96.

5. Taking these two factors into consideration, the Respondent No.2 took a decision to issue a show cause notice under Rule 19(1) of the CCS (CCA) Rules to the applicant by the impugned order dated 5-2-99.

6. The applicant has filed this OA praying to set aside the impugned order dated 5-2-99 passed by the R-2 proposing the penalty of removal of the applicant from service as null and void and violative of the principles of natural justice.

7. In ~~the~~ fact, by the impugned order itself, the respondent No.2 had issued 15 days time to the applicant to explain against the said order. The applicant is at liberty to bring it to the notice of the respondent No.2 all the contentions that are permissible to him to take under law.

8. The learned counsel for the applicant submits that Rule 19 of the CCS (CCA) Rules states that the respondent authority can take further action if convicted. In the present case the conviction itself had been suspended. Hence, the question of

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conduct leading to conviction did not arise. Under Rule-19 of the CCS (CCA) the respondent authorities are not permitted to do further action when the conviction is suspended. The applicant further submits that the authorities have issued the show cause notice without following the rules and they have a closed mind and he may not get justice from them.

9. The above submission was considered. The authorities in the disciplinary proceedings are quasi judicial authorities. It cannot be said they will close their mind and order without seeing the rules. Hence, the contention raised now may not be appropriate.

10. However to safe-guard the ~~interests~~ interests of the applicant we direct that the final decision taken by the authorities if it is going to be detrimental to the applicant then that decision should come into force only 21 days after the receipt of that decision by the applicant.

11. The applicant may submit his explanation to the impugned order dated 5-2-99 within 15 days from the date of receipt of a copy of this order.

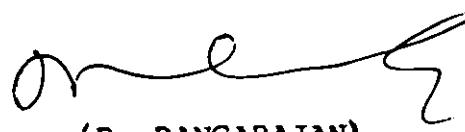
12. However, we make it clear that in case the respondent authorities take a decision adverse to the interest of the applicant then that decision shall not be implemented till the expiry of 21 days from the date of service of the order on the applicant.

13. With the above directions the OA is disposed of.
No costs.

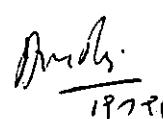

(B.S.JAI PARAMESHWAR)
MEMBER(JUDL.)

16-7-99.

Dated : The 16th July, 1999.
(Dictated in the Open Court)


(R. RANGARAJAN)
MEMBER(ADMN.)

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COPY TO :-

1. HDHN3

2. HHRP M(A)

3. HBSJP M(J)

4. D.R. (A)

5. SPARE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD;

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

THE HON'BLE MR. H. RAGUNARA PRASAD.
MEMBER (ADMIN)

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

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

ORDER: Date, 16-7-99

ORDER / JUDGMENT

MA./RA./CP.NO

IN
C. A. NO. 290/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED

R.A. CLOSED.

D.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.

