

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

MA/021/00168/2018 & OA/021/00372/2015
Date of Order : 07-03-2019

Between :

R. Venkateswara Rao
S/o Narayana Murthy, aged 52 years,
Occ : Mail Man [now retired], RMS 'Z' Division,
Abids, Hyderabad R/o Block No.40-C
GPRA Campus, Gachibowli, Hyderabad.Applicant

AND

1. The Superintendent,
Rail Mail Services 'Z' Division,
GPO Complex, Abids, Hyderabad.
2. The Director of Postal Service
O/o Post Master General, Hyderabad Region,
Dak Sadan, Abids, Hyderabad.
3. The Chief Post Master General,
AP Circle, Abids, Hyderabad.
4. The Union of India,
Rep by its Ministry of Communication &
Information, Department of Posts,
Dhak Bhavan, New Delhi, 110116. ...Respondents

Counsel for the Applicant: Mr. M. R. Tagore

Counsel for the Respondents : Mr. P. Krishna, Addl.CGSC

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER

THE HON'BLE MRS.NAINI JAYASEELAN, ADMINISTRATIVE MEMBER

(Oral Order per Hon'ble Mr. Justice R. Kantha Rao, Judicial Member)

Brief facts of the case which have been unfolded from the OA as well

as the reply statement may be stated as follows :

2. MA No. 168/2018 seeking to expedite hearing of the OA is allowed.

Accordingly OA is taken up for hearing.

3. One Mr. Suresh Kumar Achari gave a complaint on 08-06-2010 stating that he sent one insured letter to M/s Vinayaka Jewellers, Medak but it was not delivered though it has reached Nampally. A complaint was also lodged on 06-09-2010 by Head Record Officer (HRO), RMS Z Division IN Nampally Police Station. A Criminal Case was registered against the applicant and one Mr. B. V. Ravi Kumar, who also figured as witness in the Departmental enquiry and the matter was investigated into. In the course of the investigation, the applicant was arrested on 06.10.2010. The applicant was under judicial custody till 10.10.2010 and was released on bail on 12.10.2010. Though he reported for duty on next day, he was not taken into service and he was continued under suspension till the date of acquittal in the Criminal Case. Simultaneously departmental enquiry was initiated against the applicant and while the same was in progress, the applicant filed OA No. 294/2011 seeking his reinstatement into service by quashing the charges. However the Tribunal, by order dated 01.06.2011 disposed of the OA directing the Respondents to complete the enquiry within a period of six months and also stated that on failure of the Respondents to complete the enquiry within a period of six months, the applicant shall be reinstated into service. Subsequently the period was extended on an application directing the Respondents to complete the enquiry. In the Departmental enquiry, the

following charges were levelled against the applicant :

“Article-I :

Shri R.V. Rao while working as Mail Man, with Nampally sorting remained absent from duty unauthorizedly w.e.f. 08.10.2010 to 13.10.2010 violating the provisions of Rule-62 of P&T Manual Volume-III and thereby failed to maintain devotion to duty as required by him under Rule-3(1)(ii) of CCS (Conduct) Rules, 1964;

Article-II :

Shri R.V. Rao while working as Mail Man with Nampally Stg, the SI of police, PS, Nampally, Hyderabad had arrested him on 10.10.2010 at 1800 hours on the offence U/S 409 IPC and he was produced before the Hon’ble XII ADDL. Chief Metropolitan Magistrate, Hyderabad on 11.10.2011. As per the orders of the Hon’ble XII ADDL. Chief Metropolitan Magistrate, Hyderabad, the said Sri R. V. Rao was released on bail on 12.10.2010. But the said Shri R.V. Rao suppressed the fact of his arrest and failed to intimate the fact of his arrest and release on bail and the circumstances connected there on to his official superior promptly i.e to the HRO, RMS Z Division, Hyderabad violating the provisions of GOIDs.No.(2)below the Rule-3 of CCS (Conduct) Rule, 1964 read with G.I.,M.H.A.Letter.No.39/59/54-Estt.(A), dated 25.02.1955 and thereby failed maintain devotion to duty and behaved in a manner unbecoming of a Government Servant as required by him under Rule-3(1)(ii) and (iii) of CCS (Conduct) Rules, 1964.

Article-III :

Shri R.V. Rai while working as Mail Man (Assistance to registration branch) Nampally Stg/A dated 07.05.2010 had received ‘R’ ‘bag of CRC, Nellore RMS/Set-2 dated 06.05.2010 from the MSA and opened the ‘R’ bag and found one INS RL. No. A 5195 of Nellore H.O (Insured for Rs.500/- (Contents worth Rs. 64837/- Gold ornaments) and RL No.323 of Nellore-1 with registered list. But instead of handing over the Ins.RL to the RSA-I with regd list of CRC, Nellore RMS Set/2 dated 06.05.2010, the said Sri R.V. Rao taken away and hiding the Insured R.L.No.5195 in his personal bag and failed to handed over to the RSA-1.

4. The Inquiry Officer held enquiry with respect of the three charges, found the applicant guilty of all the three charges and submitted enquiry report to the Disciplinary Authority. The Disciplinary Authority, by

proceedings dated 13.10.2013 concurred with the findings of the Disciplinary Authority, imposed a punishment of Compulsory retirement on the applicant. Subsequently the appeal and revision filed by him were also dismissed. The applicant therefore filed the present OA to set aside the orders passed by the authorities and the penalty of compulsory retirement and to reinstate into service with all consequential benefits.

5. It is contended by the Respondents in their reply statement that there is abundant evidence before the Inquiry Officer and therefore the findings recorded by the authorities do not call for any interference in the present OA. They further contended that the acquittal of the applicant in the Criminal Case is by giving him benefit of doubt and therefore on the said ground the order of compulsory retirement cannot be interfered with.

6. We have heard Mr.M.R.Tagore, learned counsel appearing for the applicant and Mr.P.Krishna, learned Addl. Standing Counsel for Respondents.

7. As regards charge No.1, admittedly the applicant was arrested in the office while he was discharging his duties. He was produced before the magistrate and remanded to judicial custody and after released on bail, he was not taken back to duty. Therefore it cannot be stated that he was absent to duty without proper permission from 8.10.2010 to 13.10.2010 from the authorities.

8. So far as charge No.2 is concerned, since he was in judicial custody, the question of failure to intimate about his arrest in writing will not arise. Therefore both the charges are groundless and we are not in acceptance with the findings of the Inquiry Officer that the charges 1 and 2 have been proved and also with the orders passed by the Disciplinary, Appellate Authority and Revisional Authorities with regard to the above two charges and they are quashed.

9. As regards charges No.3, The contention of the applicant is that he was acquitted by a competent Criminal Court for the very same charges and therefore he cannot be subjected to a Disciplinary Enquiry in respect of the very same charge and therefore the penalty of Compulsory Retirement passed against him is liable to be set aside.

10. We have gone through the judgments of the XII Addl. Chief Metropolitan Magistrate, Hyderabad, in CC No.18/2011 in which the applicant was tried for the same charge. In the judgment, after going through the entire evidence, the learned Magistrate found that the accused was entitled for benefit of doubt. Therefore in our view the acquittal of the applicant is not on merits. Further the proof required in a Criminal Case is different from the proof required in a Departmental Enquiry. Therefore we have to find out whether the charge No.3 was proved or not. Before the Inquiry Officer, one Mr.Suresh Kumar Achari, the complainant was examined as one of the witness by the Department and spoke about his complaint lodged on 08.06.2010 to the Sr. Supdt. Of Post Offices, Nellore Division in

respect of the insured RL to M/s Vinayak Jewellers which was not delivered. Evidence goes to show that subsequently the gold ornaments/articles were recovered from the house of the applicant by the Police during the investigation and were handed over to Mr. Suresh Kumar Achari. The applicant did not claim the articles in the Criminal Case.

11. There is evidence of Mr. B. Prabhakar Rao to the effect that the insured letter was entrusted to the applicant. One Mr. Gopal Rao, who is a Casual Labour also deposed the same fact. Mr. B. Ravi Kumar, though he is co-accused with the applicant in the Criminal Case, deposed to the fact that he saw Mr. Ravi Kumar hiding the Article in his pocket and paid him Rs.500/- (Rupees Five hundred only) stating not to reveal the same to HSA. One of the contentions urged on behalf of the applicant is that the 3rd charge against the applicant is that only in respect of the insured letter worth Rs.500/- which was entrusted to him and subsequently a story was developed that the applicant misappropriated the gold Articles after committing theft of gold articles from the insured cover. In the instant case, even before the articles were recovered from the house of the applicant, one Mr. Suresh Kumar Achari lodged a complaint stating that the insured letter contains gold Articles. In the Criminal Court he identified those articles and they were handed over to his custody. Therefore, at the time of framing of the charges, it was not known as to what was contained in the insured cover and after receiving the subsequent information and evidence, it was found that the gold articles in the insured letter were stolen. On proper analysis of the evidence on record, the Inquiry Officer concluded

that the charge No.3 is duly proved. The evidence, in our view is sufficient in a departmental enquiry to prove the charge we are not supposed to substitute our view to that of the Inquiry Officer and the other authorities who have dealt with the Enquiry Report unless the conclusions reached by them are wholly unreasonable and perverse. We do not therefore find any reason to interfere with the findings recorded by the Inquiry Officer which were confirmed by the authorities. As regards the punishment, the charge proved against the applicant is grave and considering the said fact, the applicant was imposed with the punishment of compulsory retirement. We do not think that the punishment is shockingly disproportionate to interfere with in the OA.

12. For the forgoing reasons, we are of the view that it is not a fit case for interference and accordingly we dismiss the same with no order as to costs.

(NAINI JAYASEELAN)
ADMINISTRATIVE MEMBER

(JUSTICE R.KANTHA RAO)
JUDICIAL MEMBER

Dated : 7th March, 2019.
Dictated in Open Court.

vi