

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/020/1260/2015

Dated: 07/06/2019

Between

P.APPALA SWAMY,
S/o P.Neelakanteswara Rao,
Aged about 26 years,
Occupation: Postal Assistant (Under Suspension),
Jagagampet SO,
R/o H.No08-121, Pasalapudi,
Mandal Rayavaram, East Godavari Dist 533261,
Kakinada Division.

... Applicant

AND

1. Union of India rep. by
Its Secretary to Govt. of India,
Ministry of Communications & IT,
Dept. of Posts, Dak Bhavan,
Sansad Marg, New Delhi-110 001,

2. The Chief Postmaster General,
A.P.Circle, ñDak SAdanö,
Abids, Hyderabad 500001,

3. The Director of Posta Services,
O/o The Postmaster Geneal,
Visakhapatnam Region,
Visakhapatnam 530017,

4. The Superintendent of Post Offices,
Kakinada Division, Kakinada 533001.

... Respondents

Counsel for the Applicant : Mr. M.Venkanna

Counsel for the Respondents : Mr. A.Surender Reddy,
Addl. CGSC

CORAM :

***Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member***

ORAL ORDER

(Per Hon^{ble} Mr. Justice L. Narasimha Reddy, Chairman)

The applicant is working as Postal Assistant in Yeleswaram S.O. On receiving a complaint about the alleged acts of misappropriation on the part of the applicant, the CBI registered a case against him. Simultaneously, departmental proceedings were initiated, by serving a charge memo dated 14.8.2015. This O.A. is filed with a prayer to direct the respondents not to proceed with the departmental inquiry in view of the pendency of the criminal case.

2. The applicant contends that both the proceedings are based on the same set of facts and it would cause prejudice to him, if the departmental inquiry is taken up even while the criminal case is pending

3. The respondents filed counter affidavit opposing the O.A. It is stated therein that the purport of both the proceedings is different from each other and that there is no basis in the contentions of the applicant. Reliance is placed upon the judgement of the Hon^{ble} Supreme Court in C.A. Nos; 1375-1376/2013 & batch.

4. Heard Sri M. Venkanna, learned counsel for the applicant and Sri A. Surender Reddy, learned Standing Counsel for the respondents.

5. The charges framed against the applicant in the departmental proceedings read as under:

ARTICLE- 1

That the said Sri P. Applaswamy, while working as P.A Yeleswaram ō A ō class delivery SO under Samalkot HO of Peddapuram Sub dn during the period from 02.08.2011 to 18.10.12 accepted an amount of Rs.20,000/- (Rs. 10,000/- each on 16.05.12 & on 18.05.12) along with (ASLAAS-6), with 21&19 RD pass books listed in the (ASLAAS-6), on 16.05.12 & on 18.05.12 from Smt G. V.S. Kumari MPKBY agent and the amount accepted was not credited in the SO accounts on 16.05.12 & on 18.05.12 or thereafter, but misappropriated for his personal needs. It is therefore, alleged that Sri P. Applaswamy ,P.A Yeleswaram SO violated the provisions of Rule 4 (1) of FHB Vol and Rule 106 read with Rule 31 (2) (ii) of PO SB Manual Volume - I and also violated Rule -98 of PO manual Volume VI Part-III and thus failed to maintain absolute integrity and devotion to duty as required by Rule 3 (1) (1) & 3 (1) (ii) of C.C.S. (Conduct) Riles, 1964.

ARTICLE- II

That during the aforesaid period and while functioning in the afore said office that the said Sri P. Appalswamy accepted an amount of Rs.9,400/- (Rupees Nine thousand four hundred only) along with ASLAAS list(ASLAAS -6), with twenty five RD pass books listed in the (ASLAAS -6) on 14.05.12 from Smt. T. Bhavani MPKBY agent and the amount accepted was not credited in the SC accounts on 14.05.12 or thereafter, but misappropriated for his personal needs. It is therefore, alleged that Sri P. Appalswamy, ,P.A Yeleswaram SO violated the provisions of Rule 4 (1) of FHB Vol 1 and Rule 98 of PO manual Volume VI Part 6III and thus failed to maintain absolute integrity and devotion to duty as required by Rule 3(1) (i) & 3 (1) (ii) of C.C. S (Conduct) rules , 1964.

ARTICLE-III

That during the aforesaid period and while functioning in the afore said office as that the said Sri P. Appaaswamy has unauthorisedly attended and performed the Rd counter work at Yeleswaram SO and made the entries in the depositors pass books and authenticated the

transactions with his dated initials and thus failed to maintain absolute integrity and devotion to duty as required by 3(1) (i) & 3 (1) (ii) of C.C. S (Conduct) Rules , 1964.ö

6. The CBI has also taken up the inquiry and not only the applicant but also several other employees were found to be involved in the acts of misappropriation. The amount involved is many lakhs.

7. In case the charges in both the proceedings are identical, the departmental proceedings can be deferred for some time, so that the employee would not be compelled to reveal his defence. However, it cannot be a total bar against the disciplinary proceedings.

8. In the instant case, the purport of the criminal proceedings is wider and substantially different from the charges which are framed against the applicant in the departmental proceedings. The inquiry against the applicant can certainly be carried out. The principles laid down by the Honøble Supreme Court in *Pal Anthony's* case do not apply to the present case. Added to that, the Honøble Supreme Court recently observed in C.A. Nos; 1375-1376/2013 & batch as under:

ö..... In all pending matters before the High Courts or other Courts relating to PC Act or all other civil or criminal cases, where stay of proceedings in a pending trial is operating, stay will automatically lapse after six months from today unless extended by a speaking order on above parameters. Same course may also be adopted by civil and criminal appellate/revisional courts under the jurisdiction of the High Courts. The trial courts may, on expiry of above period, resume the proceedings without waiting for any other intimation unless express order extending stay is produced.

The High Courts may also issue instructions to this effect and monitor the same so that civil or criminal proceedings do not remain pending for unduly period at the trial stage.ö

9. We, therefore, dismiss the O.A. and vacate the interim order. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)
pv

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN