

M. Faiz Ali Vs. the Senior Superintendent of Post

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Court : Central Administrative Tribunal CAT Hyderabad

Decided On : Jul-18-2007

Judge : P L Vice

Appellant : M. Faiz Ali

Respondent : The Senior Superintendent of Post

Judgement :

1. Heard Mr. M. Venkanna, Ld. Counsel for the applicant and Mr. G. Jaya Prakash Babu, Senior Standing counsel appearing for the respondents.

2. This application is filed challenging the impugned order dated 31.3.2005 passed by the Senior Superintendent of Post Offices, Hyderabad City Division, Hyderabad, by which recovery of an amount of Rs. 1,16, 383/- from the salary payable to the applicant was ordered.

There was a fraud committed by one Sri A. Prabhakara Rao, while he was working as Postal Assistant, Sub-postmaster and In-charge of the Treasury for some time, to the tune of Rs. 54 lakhs in respect of Savings Bank Account, Monthly Income Scheme Accounts and Kisan Vikas Patras and in regard to Savings Certificates etc. The present applicant at that point of time was working as Postal Assistant in SBCO. The allegation made against the applicant is that had he been diligent enough in performance of his duties, the fraud committed by Sri A. Prabhakara Rao would have been detected at the appropriate time and the Government revenue would have been saved. On such allegation, separate disciplinary proceedings

have been initiated against the applicant and several others under Rule 16 of C.C.S. (C.C.A.) Rules, 1965 and explanation of the applicant was called for. The applicant denied the alleged negligence on his part. He pleaded that he was in no way responsible for the alleged fraud committed by Sri A. Prabhakara Rao and, therefore, he is not responsible for the alleged loss caused to the respondents. He requested for a thorough inquiry to fix up the responsibility. But, the Director of Postal Services (Hqrs.), O/o. Pr. Chief Postmaster General, A.P. Circle, Hyderabad, rejected the request of the applicant to conduct enquiry on the analogy of Rule 14 of the CCS (CCA) Rules and passed final orders in the disciplinary proceedings imposing penalty of Rs. 1, 16,383/- to be recovered from the salary of the applicant in monthly installments. Aggrieved of the same, the present application is filed contending that the rejection of the request of the applicant made under Rule 16(1)(b) of CCS (CCA) Rules, 1965 is bad in law. The applicant submitted that without proof of alleged negligence on the part of the applicant, the respondents cannot straight away recover the amount from the salary of the applicant.

4. The respondents contested the application by filing reply statement stating that it is not mandatory to accede to the request of the applicant to conduct inquiry and that the disciplinary authority has got its own discretion whether to conduct the inquiry or not to conduct inquiry under Rule 16(1)(b) of CCS (CCA) Rules, 1965, and, in the instant case, after the explanation was called for from the applicant, the disciplinary authority applied his mind to the facts of the case and formed an opinion that there is no necessity to hold a regular inquiry as the charges were based on the documentary evidence, and passed final orders imposing one of the penalties prescribed under Rule 11(iii) of CCS (CCA) Rules, 1965 and that the appellate authority also confirmed the orders of the disciplinary authority on the ground that the disciplinary authority has passed a reasoned order and, therefore, there is no need for interference by this Tribunal.

5. The point that arise for consideration in this application is whether the impugned orders ordering recovery of the amount of Rs. 1, 16,383/- from the salary of the applicant without conducting any inquiry regarding alleged negligence on the part of the applicant is sustainable in law? 6. Both the counsel for the applicant and

also the learned senior standing counsel submitted that one employee, who is similarly placed as that of the applicant had already filed O.A. No. 764 of 2004 before this Tribunal challenging the similar order in respect of the same alleged fraud committed by Sri A. Prabakara Rao, and the said matter has already been disposed of by this Tribunal on 10.7.2007 holding that the disciplinary authority is not justified in rejecting the request of the applicant to conduct inquiry under Rule 16(1)(b) of CCS (CCA) Rules, 1965 and, therefore, the impugned order of ordering recovery deserved to be quashed and is liable to be set aside. It is not disputed that the case of the present applicant is also similar to the case of the applicant therein (i.e. O.A. No. 764 of 2004). Therefore, the orders passed in O.A. No. 764 of 2004 are very much applicable to the facts of the instant case. Hence, similar orders are required to be passed in this O.A., as this O.A. is also squarely covered. I am in entire agreement with the view expressed by the Learned Judicial Member of this Tribunal, Mrs. Bharati Ray in O.A. No. 764 of 2004 dated 10.07.2007. Hence, this point is answered in favour of the applicant.

7. The O.A. is, therefore, allowed and the impugned orders passed by the disciplinary authority are set aside and the matter is remanded back to the disciplinary authority to conduct regular departmental enquiry regarding the charges leveled against the applicant and take action in accordance with rules within a period of six months from the date of communication of this order. The applicant is also directed to co-operate with the inquiry. Further recoveries, if any, shall be stayed, pending disposal of the inquiry.

8. With the above direction, the O.A. is allowed. However, there shall be no order as to costs.

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