

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/351/2020 & MA/20/242/2020

HYDERABAD, this the 24th day of July, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



T. Nehru, S/o. T. Bheema, Gr.C
Aged about 44 years,
Occ: Depot Material Superintendent/Diesel,
Stores Depot/Gooty,
O/o. SMM/DSD/GY,
Guntakal Division,
South Central Railway,
R/o. H.No.9-1660, Sundarayya Colony,
Gooty RS, Anantapur, AP. 515 401.

... Applicant

(By Advocate: Mrs. S. Anuradha)

Vs.

1. Union of India rep. by
The General Manager,
South Central Railway,
Rail Nilayam, III Floor,
Secunderabad – 500 071.
2. The Senior Deputy General Manager /V,
South Central Railway,
Rail Nilayam, III Floor,
Secunderabad – 500 071.
3. The Deputy Chief Material Manager,
Stores Branch, South Central Railway,
Rail Nilayam, Secunderabad – 500 071.
4. The Senior Material Manager,
O/o. SMM/DSD/GY, Guntakal Division,
South Central Railway, Gooty,
Andhra Pradesh.

... Respondents

(By Advocate: Mr. N. Srinatha Rao, SC for Railways)

ORDER (ORAL)**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

2. The OA is filed in regard to the order dt. 10.07.2020 passed by the 3rd respondent enhancing the penalty of reduction to a lower grade of Rs.2800/- in time scale of pay of Level -5 of Pay Matrix for a period of 18 months with cumulative effect and reduction of basic pay from Rs.49000/- in Level - 6 to Rs.40,400/- imposed vide order dt. 25.01.2019, to that of removal from service.

3. The applicant, while working as Junior Engineer in the respondent's organization, was issued a charge memo on 27.11.2012 containing two articles of charge. The inquiry was taken up and thereupon based on the inquiry report, a penalty of 'reduction of Pay and Grade for a period of 18 months' was imposed on the applicant vide order dated 25.01.2019. The applicant submitted an appeal to the appellate authority on 09.03.2019. The penalty imposed by the Disciplinary Authority in regard to reduction of Pay was to be over in 18 months period. When the penalty period was about to complete, the Appellate Authority enhanced the penalty to 'removal from service'. Aggrieved over the same, the applicant filed the present O.A.

3. When the matter came up for admission, this Tribunal heard the matter and opined that since it concerns disciplinary action wherein the applicant was removed from service, the respondents ought to be given the requisite time to file reply. Hence, the case was adjourned to 17.08.2020. While so, the applicant filed an M.A. stating that the Appellate Authority has imposed the penalty of removal, without giving any notice proposing to enhance the penalty. Further, the penalty has been enhanced at the behest

and direction of the Vigilance Department, which is violative of the orders of the Hon'ble Lucknow Bench of this Tribunal in Rajarama Varma Vs UoI reported in 2003(3) 473. Further, the applicant has already suffered the penalty of reduction imposed by the Disciplinary Authority and the Appellate Authority enhancing it to removal from service, tantamount to double jeopardy. The applicant has prayed that since the respondents have not followed the rules and law, the matter may be remitted back to the Appellate Authority, for taking appropriate view as per law and rule.



4. Heard Smt. S. Anuradha, learned counsel for the applicant and Sri N. Srinatha Rao, learned counsel for the respondents, and perused the pleadings on record.

5. The contention of the applicant is that the Appellate Authority has enhanced the penalty, without issuing notice proposing enhancement. Besides, the penalty has been imposed based on the directions of the Vigilance Department, which is against rules and law. Further, the applicant has already suffered the penalty and, therefore, the Appellate Authority, imposing the penalty of removal from service is nothing more than double jeopardy. In view of the above, the applicant prayed that the matter may be remitted back to the Appellate Authority for issuing necessary orders as per rules and law.

Learned counsel for the respondents has submitted that the applicant can file an application before the revision authority. He contended that this remedy has not been availed by the applicant, though, in the order of the appellate authority dt. 10.07.2020, it has been clearly informed to the applicant that under Rule 18 & 19 of RS (D & A) Rules, 1968, a revision petition against the said order lies to CMM/T, which can be preferred within

45 days. However, as per Section 20 of the Administrative Tribunals Act, 1985, a person shall be deemed to have availed of all the remedies available to him if a final order has been made by the authority or officer rejecting any appeal preferred or representation made by such person in connection with the grievance. Further, since the applicant has raised certain grounds against the order of the appellate authority and specifically pleaded that no notice was issued to him before enhancing the penalty quoting Rule 22(2)(v) of the Railway Servants (Discipline & Appeal) Rules, 1968, which, according to him, is mandatory, the same can be examined and decided.



6. After hearing both the sides, we find it fair and genuine to remit the matter to the Appellate Authority for issuing an appropriate order, keeping in view the grounds raised in the M.A. & O.A., by issuing a speaking and reasoned order, within a period of 12 weeks from the date of receipt of the order. The respondents are directed accordingly.

7. With the above direction, both the MA & O.A are disposed of.
No order as to costs.

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

(ASHISH KALIA)
MEMBER(JUDL.)

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