

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH: HYDERABAD

D.A. NO.

398/87

T.A. NO.

DATE OF DECISION 10-11-89

Petitioner

Advocate for the
Petitioner (s)

Versus

Respondent

Advocate for the
Respondent (s)

CORAM

The Hon'ble Mr. D. Suryadev, Member (S)

The Hon'ble Mr. D. K. Chakravorty, Member (D)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. whether their Lordship, wish to see the fair copy of the Judgment?
4. whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice-Chairman on columns 1,2,4, (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

NO

(DSR)

(DKC)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

C.A. NO. 398/1987

Date of the order: 10-11-1989.

Between:

S.Ramachander Rao

... APPLICANT

VERSUS

1. General Manager, S.C.Rly.,
Secunderabad.

2. Chief Personnel Officer,
S.C.Rly., Secunderabad.

3. Senior Divisional Personnel
Officer, SC Rly., Sec'bad.

4. Divl. Personnel Officer (MG),
Hyd'bad Divn., Sec'bad.

... RESPONDENTS

Appearance:

For the Applicant : Mr.T.Lakshminarayana, Advocate

For the Respondents : Mr.P.Venkatrama Reddy, SC for Rlys.

CORAM:

The Hon'ble Mr.D.Surya Rao, Member (Judicial)

The Hon'ble Mr.D.K.Chakravorty, Member (Admn.)

(JUDGMENT OF THE BENCH DELIVERED BY THE HON'BLE
MR.D.SURYA RAO, MEMBER (JUDICIAL).

The applicant herein is working as Junior Clerk in the Office of the Divisional Railway Manager, Metre Guage, South Central Railway, Hyderabad. He has filed this Application against the orders No.Com/Y/C/19/85V dated 8-10-1986 issued by the Divisional Personnel Officer, (Metre Guage), Hyderabad Division, Secunderabad, the 4th Respondent herein. Under the said impugned order

charges were framed against the applicant for certain action of dereliction of duty. The applicant states that earlier on 15-3-1982, a charge-memo has been issued to him for not declaring his private cash in his rough journal book while working as T.T.E. on 8-6-81/9-6-81. The applicant was found guilty and was dismissed from service by an order dated 19-9-83. The applicant preferred an appeal to the Chief Commercial Superintendent, the appellate authority. The appeal was rejected on 26-3-1984 and the Respondents settled the accounts and paid the contribution amount due from the applicant's Provident Fund to him. The applicant states that thereafter, the Respondents *suo motu*, on humanitarian grounds, ordered that he may be appointed as an Office Clerk as a fresh entrant for all purposes. He was proposed to be appointed as a clerk in the Rayanpadu Workshop as a fresh entrant for all purposes. But, on his request, his posting to Rayanpadu was modified and the applicant was posted to Secunderabad in the office of the Divisional Railway Manager (P), Metre Gauge, Hyderabad. The applicant joined duty at Hyderabad on 24-6-1984. Thereafter, on 8-10-1986 the impugned charge-memo was issued to him. The said charges relate to irregularities committed by the applicant during his service as T.T.E. much earlier in 1982, that is, long prior to his re-employment as fresh incumbent in the year 1984. It is the case of the applicant, that having initially dismissed him from service and thereafter reinstated as a fresh incumbent, it is not open to the Respondents to commence disciplinary proceedings in respect of the alleged acts of misconduct committed long prior to his dismissal and his reinduction as a fresh entrant in another capacity as a junior clerk.

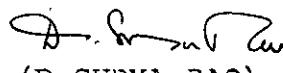
2. On behalf of the Respondents, a counter has been filed denying the various contentions raised by the applicant. It is admitted in the counter that the applicant was initially dismissed from service on 19-9-83 pursuant to the charge-sheet issued earlier, subsequently the Additional General Manager considered the suggestion made by the appellate authority viz. the Chief Commercial Superintendent, who while confirming the penalty of dismissal, had suggested that the competent authority should consider posting of the applicant as a fresh entrant as an office clerk in the grade of Rs.260-400 at the minimum of the time scale, on humanitarian ground and that this appointment as office clerk should be as a fresh entrant for all purposes. It is contended, however, in the counter that once the applicant re-joined the railway service, the disciplinary proceedings which were in the state of suspended animation, will get revived. It is stated that there is no effacement or extinction of charges which were kept in the state of suspended animation consequent on his re-employment.

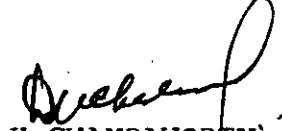
3. We have heard the learned counsel for the applicant Shri T.Lakshminarayana and Shri P.Venkatarama Reddy, the learned Standing Counsel for the Railways, on behalf of the Respondents.

4. The short question is whether the applicant can be proceeded against for acts of misconduct or misdemeanour committed in the earlier post of T.T.E. in regard to which he has been visited with the punishment of dismissal from service, consequent on his re-appointment as a fresh entrant in a totally different post namely junior clerk. We are of the opinion that consequent on the dismissal of the applicant from the service and

his fresh appointment later, in a totally new post, all the proceedings taken in regard to the earlier post of T.T.E. are deemed to have been abated. This is particularly so in view of the fact that the Railways themselves have stated that it was a fresh appointment for all purposes (emphasis given by us). The applicant accepted the fresh appointment. Further, when the Respondents directed for applicant's re-appointment as a fresh appointee, it is deemed that they had the knowledge of pendency of other disciplinary proceedings against him and despite the same they had directed his re-appointment. This would be an added ground for holding that the earlier proceedings are deemed to have been abated.

5. With these observations, the O.A. is allowed, but without costs.


(D. SURYA RAO)
MEMBER (J)


(D.K. CHAKRAVERTY)
MEMBER (A)

Dated: 10th November, 1989.
Dictated in open court

mhb/


DEPUTY REGISTRAR (A)
S1M 85

TO:

1. The General Manager, S.C.Railway, Sec'bad.
2. The Chief Personnel officer, S.C.Rly. Sec'bad.
3. The Senior Divisional Personnel officer, SC.Rlys. Sec'bad.
4. The Divisional personnel officer (MG), Hyderabad Division, Sec'bad.
5. One copy to Mr.T.Lakshminarayana, Advocate, H.No.D.16, New Nallakunta, Hyderabad.
6. One copy to Mr.P.Venkatarama Reddy, SC for Rlys, CAT, Hyd.
7. One spare copy.

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