

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~ HyderabadO.A. No. 405 of 1987.
T.A. No.

DATE OF DECISION 14/7/87

Mr. S. Md. Khasim. Petitioner

Mr. B. D. Maheswara Reddy. Advocate for the Petitioner(s)

Versus

Group Captain Commanding Officer, Respondent
Air Force Station, Suryalanka

Mr. K. Jagannatha Rao, CGSC Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B. N. Jayasinha, Vice chairman

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

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

No

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(VCS)D.R.
(CH)

ORIGINAL APPLICATION NO. 405 of 1987.

ORDER OF THE TRIBUNAL

The applicant in this application is working as
Chowkidar ^{at the} ~~in~~ Air Force ^{Station} at Suryalanka, Bapatla, Guntur District.
He seeks to question in this application the order of ~~dismissal~~
dated 13-3-1986 issued by the Group Captain, Commanding Officer,
Competent disciplinary authority, dismissing the applicant from
service. This order was confirmed in appeal by an order of
the HQ Southern Air Command in order No.SAC/7529/1/11/PC dt.
9-10-1986. The applicant has questioned these two orders on
various grounds.

2. We have heard the Counsel for the applicant, Mr.B.D.
Maheswara Reddy and Mr.Parameswara Rao representing Mr.K.Jagan-
natha Rao, Standing Counsel for the Central Government.

3. This application can be disposed of on one ground
alone viz., that the appellate order is not a speaking order.

The order of the appellate authority reads as follows:

" Please refer to your appeal dated 2nd August,
1985 to AOC-in-C against your dismissal from the
service by Station Commander 401 Air Force Station.

2. Your appeal and the proceedings of the Board of
Inquiry held in your case at 401 Air Force Station
have been considered by AOC-in-C, who has rejected
the appeal."

In ATR 1986(2) SC 252-Ramchander Vs.Union of India, it has been held

contd..2

by the Supreme Court which read as follows:-

"4. The duty to give reasons is an incident of the judicial process. So, in R.P. Bhatt v. Union of India this Court, in somewhat similar circumstances, interpreting Rule 27(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 which provision is in pari materia with Rule 22(2) of the Railway Servants (Discipline and Appeal) Rules, 1968, observed: (SCC p.654, para 4)

It is clear upon the term of Rule 27(2) that the appellate authority is required to consider (1) whether the procedure laid down in the rules has been complied with; and if not, whether such non-compliance has resulted in violation of any of the provisions of the Constitution of India or in failure of justice; (2) whether the findings of the disciplinary authority are warranted by the evidence on record; and (3) whether the penalty imposed is adequate; and thereafter pass orders confirming, enhancing etc. the penalty, or remit back the case to the authority which imposed the same.

It was held that the word 'consider' in Rule 27(2) of the Rules implied 'due application of mind'. The court emphasized that the appellate authority discharging quasi-judicial functions in accordance with natural justice must give ~~xx~~ for its decision. There was in that case, as here, no indication in the impugned order that the Director General, Border Road Organisation, New Delhi was satisfied as to the aforesaid requirements. The Court observed that he had not recorded any finding on the crucial question as to whether the findings of the disciplinary authority were warranted by the evidence on record. In the present case, the impugned order of the Railway Board is in these terms:

- (1) In terms of Rule 22(2) of the Railway Servants (Discipline and Appeal) Rules, 1968, the Railway Board have carefully considered your appeal against the orders of the General Manager, Northern Railway, New Delhi imposing on you the penalty of removal ~~xx~~ from service and have observed as under:

- (a) by the evidence on record, the findings of the disciplinary authority are warranted; and
 - (b) the penalty of removal from service imposed on you is merited.
- (2) The Railway Board have therefore rejected the appeal preferred by you.

5. To say the least, this is just a mechanical reproduction of the phraseology of Rule 22(2) of the Railway Servants Rules without any attempt on the part of the Railway Board either to marshal the evidence on record with a view to decide whether the findings arrived at by the disciplinary authority could be sustained or not. There is also no indication that the Railway Board applied its mind as to whether, the act of misconduct with which the appellant was charged together with the attendant circumstances and the past record of the appellant were such that he should have been visited with the extreme penalty of removal from service for a single lapse in a span of 24 years of service. Dismissal or removal from service is a matter of grave concern to a civil servant who after such a long period of service may not deserve such a harsh punishment. There being non-compliance with the requirements of Rule 22(2) of the Railway Servants Rules, the impugned order passed by the Railway Board is liable to be set aside."

Accordingly, we remand the case to the appellate authority for
and in accordance with the observations of the Supreme Court
disposal according to law within a period of two months from the
date of receipt of this order. He shall consider all the grounds
raised by the applicant in his appeal dated 2-9-1986 and shall also
give the appellant an opportunity of
~~offer any appeal for~~ being heard personally if he desires. With
these directions the application is disposed of. There shall be
no order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice Chairman

D. Surya Rao
(D. SURYA RAO)
Member(J)

Dated: July 14, 1987.

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IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL : HYDERABAD

THE HON'BLE MR. B.N. JAYA SIMHA (VC)

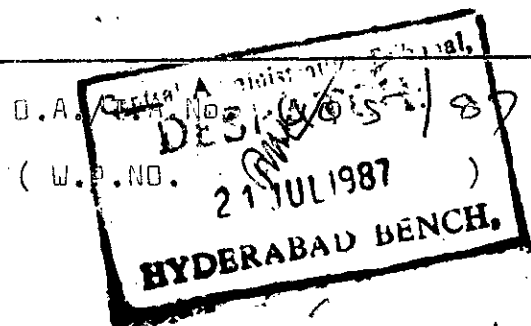
AND

THE HON'BLE MR. D. SURYA RAO (M)

Dated:

14/7/87

ORDER/JUDGMENT



Disposed forthwith.