

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA 261/89 *and m. A 210-112/90*

Date of Judgment: 21-2-91.

Lazarous Ellias

...Applicant

Vs.

1. Sr.Divisional Mechanical Engineer,
Hyderabad (MG) Divisional Office,
Mech.Branch, South Central Railway,
Secunderabad.
2. Divisional Railway Manager (MG),
Hyderabad Division, South Central
Railway, Secunderabad.
3. Chief Mechanical Engineer, South
Central Railway, Rail Nilayam,
Secunderabad.

...Respondents

- - - -

Counsel for the Applicant : Shri D.Govardhana Chary

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys

- - - -

CO RAM:

THE HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

THE HON'BLE SHRI D.SURYA RAO : MEMBER (JUDICIAL)

(Judgment of the Division Bench delivered by
Hon'ble Shri B.N.Jayasimha, Vice-Chairman).

- - - -

The applicant is an employee of the Loco-Shed,
Lallaguda, South Central Railway, Secunderabad. In the
year 1982 he was promoted from his substantive post of
Fitter Gr.I in the scale 1320-2040 to the post of
Millwright Chargeman 'B' in the scale Rs.1400-2300 on
ad hoc basis. This ad hoc arrangement continued indefinitely.
While working as Millwright Chargeman B, charges were
framed against ~~the applicant~~ ^{him} for negligence. ^{via} ~~The charges~~
~~against the applicant~~ ^{he} ~~is~~ that the applicant had fitted

bwl

a bolt of 7/8" dia meter against the requirement of 1 3/8" bolt into split gear which ultimately said to have resulted in the detention of break down for 0.36 minutes on 18-4-1987. After enquiry, the 1st respondent imposed upon the applicant the punishment of reduction in rank together with the loss of seniority for a period of 39 months. On appeal to the 2nd respondent, the punishment was reduced to ^{reduction in rank for} a period of 24 months without loss or seniority. This order of the 2nd respondent dt. 14-6-1988 was further modified by an order dt. 31-10-88 of the revising authority by reducing the punishment to a period of 4 months with a warning to the applicant not to repeat such similar lapses in the future. The applicant questions these orders on several grounds. He states that though he had fitted an undersized bolt, the mishap was not due to this reason and the failure of the crane was due to improper negotiation by the concerned operator. Further as per the order dt. 31-10-1988 passed by the 3rd respondent, he had already undergone the punishment of reduction in rank for a period of four months i.e. he was reverted to the post of Fitter Gr.II on 29-8-1989, he should have been put-back to the post of Millwright charginmen-B. However, by an order dt. 29-12-1989, he was posted to the lower post of fitter Gr.I. He had therefore filed MA 112/90 for setting aside the order dt. 29-12-1989

contd....3.

seeking that he be restored to the post of Millwright Chargmen-B higher of the post of Fitter Gr.I. ~~In~~ Pursuant to the order dt.13-3-1990^{of} this Tribunal, he filed MA 622/90 for amending the prayer in the Original Application. In this M.A.622/90 apart from questioning the order of punishment dt.31-10-1988, the applicant also questions the order of the 2nd respondent dt.29-12-1989 in posting to the post of Fitter Gr.I instead of to the post of Millwright Chargmen-B, which he held before the punishment was imposed on him.

2. The Respondents say that the applicant admits that he had fitted a wrong bolt. The orders of the punishing authority, the appellate authority and the revising authority are based on the findings of the enquiry and in there is no illegality in the punishment imposed. The appellate authority and the revising authority have considered the various points urged by the applicant in his appeal and review petition and modified the punishment imposed. The applicant has not made out any case for interference by this Tribunal.

3. We have heard Shri D.Govardhana Chary, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the Respondents. In so far as the enquiry held and the punishment imposed, we see no merit in any of the contentions of the applicant. However the applicant contends that he should have been restored to the post of Millwright Chargmen B i.e. the post held by him
contd.....4..

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 261/89
T.A.No.

Date of Decision : 21-2-91

_____	Petitioner.
_____	Advocate for the petitioner (s)
Versus	
_____	Respondent.
_____	Advocate for the Respondent (s)

CORAM :

THE HON'BLE MR. B.N. JAYASIMHA : VICE-CHAIRMAN

THE HON'BLE MR.D.SURYA RAO : MEMBER (JUDICIAL)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *no*
2. To be referred to the Reporter or not ? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *no*
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)

bnj
(BNJ)
VC

DSR
(DSR)
M(J)

- 4 -

prior to the punishment of reduction in rank needs consideration. Shri Devraj points out that consequent to the ~~dese~~sealisation/modernisation, the number of posts of Millwright Chargmen-B and other similar posts became redundant and those posts are not being operated. The applicant was therefore not restored to the said post of Millwright Chargmen-B and he was posted to the substantive post held by him i.e. Fitter Gr.I. There is therefore no illegality in not restoring the applicant to the post of Millwright Chargmen-B. We are unable to accept this view. But for the imposition of the punishment, the applicant, who has been working for more than six years as Millwright Chargmen-B, would not have been reverted to the post of Fitter Gr.I without a specific order being passed ~~for~~ abolishing of the posts or reduction in number of posts. No order abolishing or reducing the number of posts of Millwright Chargmen-B has been shown to us. In the circumstances, the applicant ought to have been restored to his original post after he had undergone the punishment. No doubt, it is open to the respondents to pass orders reducing the number of posts in this category and revert the applicant thereafter. In the result we direct the respondents to restore the applicant to the post Millwright Chargmen-B with effect from 29-12-1989 with consequential benefits. However, this order of ours will not be a bar on the respondents in regard to any action they may take in regard to re-

6N1

ducing the number of posts/abolishing these posts or to keep them in abeyance.

3. Subject to the above observations, this application along with the miscellaneous application No.112/90 are allowed. There will be no order as to costs.

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

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

Dated: 21st February, 1991.

Dictated in Open Court.

[Signature] 21 Deputy Registrar (Judl)

avl/

To

1. The Sr.Divisional Mechanical Engineer,
Hyderabad(MG) Divisional Office,
Mech.Branch, S.C.Railway, Secunderabad.
2. The Divisional Railway Manager (MG)
Hyderabad Division, South Central Railway,
Secunderabad.
3. The Chief Mechanical Engineer, South Central Railway,
Railnilayam, Secunderabad.
4. One copy to Mr.D.Govardhana Chary, Advocate
1-1-80/20, R.T.C. 'X' Roads, Hyderabad.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench.
6. One spare copy.

pvm

[Handwritten signature]
4/3/91

(3) ~~ASR~~
4/13/91

CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA : V.C.

AND

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

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

Dated: 21-2-1991.

~~ORDER~~ / JUDGMENT:

~~M.A./R.A./C.A. No.~~

~~in~~

~~F.A. No.~~

~~W.P. No.~~

O.A. No.

261/89

Admitted and Interim directions
issued.

Allowed

Disposed of with direction

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

Central Administrative Tribunal

HYDERABAD BENCH

21/2/1991

HYDERABAD BENCH

- 4 -

prior to the punishment of reduction in rank needs consideration. Shri Devraj points out that consequent to the ~~dese~~sealisation/modernisation, the number of posts of Millwright Chargmen-B and other similar posts became redundant and those posts are not being operated. The applicant was therefore not restored to the said post of Millwright Chargmen-B and he was posted to the substantive post held by him i.e. Fitter Gr.I. There is therefore no illegality in not restoring the applicant to the post of Millwright Chargmen-B. We are unable to accept this view. But for the imposition of the punishment, the applicant, who has been working for more than six years as Millwright Chargmen-B, would not have been reverted to the post of Fitter Gr.I without a specific order being passed ~~for~~ abolishing of the posts or reduction in number of posts. No order abolishing or reducing the number of posts of Millwright Chargmen-B has been shown to us. In the circumstances, the applicant ought to have been restored to his original post after he had undergone the punishment. No doubt, it is open to the respondents to pass orders reducing the number of posts in this category and revert the applicant thereafter. In the result we direct the respondents to restore the applicant to the post Millwright Chargmen-B with effect from 29-12-1989 with consequential benefits. However, this order of ours will not be a bar on the respondents in regard to any action they may take in regard to re-

ducing the number of posts/abolishing these posts or to keep them in abeyance.

3. Subject to the above observations, this application along with the miscellaneous application No.112/90 are allowed. There will be no order as to costs.

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

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

Dated: 21st February, 1991.

Dictated in Open Court.

[Signature] 4/3/91
Deputy Registrar (Judl)

avl/

To

1. The Sr.Divisional Mechanical Engineer,
Hyderabad(MG) Divisional Office,
Mech.Branch, S.C.Railway, Secunderabad.
2. The Divisional Railway Manager (MG)
Hyderabad Division, South Central Railway,
Secunderabad.
3. The Chief Mechanical Engineer, South Central Railway,
Railnilayam, Secunderabad.
4. One copy to Mr.D.Govardhana Chary, Advocate
1-1-80/20, R.T.C. 'X' Roads, Hyderabad.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench.
6. One spare copy.

pvm

[Handwritten signature]
4/3/91