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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 378 of 1989

Date of Order: 20/02/1990

Ch. Venkateswarlu

...applicant

Versus

General Manager, SCR,
RailNilayam, Sec'bad.

2. Divisional Railway Manager,
Hyderabad Division, DRMMG,
SCR, Sec'bad.

3. Chief Personnel Officer, SCR,
Sec'bad.

...respondents

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For Applicant: MR.A.C.LAKSHMANA CHAR

For Respondents: MR.N.R.DEVARAJ, Standing Counsel for
Railways

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C O R A M:

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

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

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(Judgment delivered by Shri D.Surya Rao, Member (Judl.)

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1. The applicant herein seeks to question Order No. SC B.57.77/V, dated 29-1-1980 issued by the 2nd respondent removing the applicant from service and order no. P/90/D&A/HYB/CHV, dated 18-9-1980 confirming the order dated 29-1-1980: Reorder to the application After TA No. 137/86 filed by the applicant was remanded back, and his case was re-considered by the 1st respondent and an order dated 5-11-88 was passed which is communicated to the applicant by letter dated 30-12-1988 rejecting the appeal by the appointing authority.

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2. The brief facts given rise to this application are as follows: The applicant is charged with the allegation that he has falsely prepared pay order in favour of three fictitious persons for Rs.88.20, 44.10 and 50.40 respectively and drawn the amount from the Station earnings and misappropriated the same, that he had made over-payments to several persons alleged to be casual workers, that he had engaged casual labours over-and-above and that he was engaged two persons as casual labourers in fictitious vacancies. It is further alleged that the applicant engaged 18 new casual labourers without obtaining prior sanction of the competent authority. An enquiry was held and the Enquiry Officer submitted a report holding the applicant guilty of the charges. This report was accepted by the disciplinary authority and the punishment of removal from service was imposed upon him. The applicant preferred an appeal to the 3rd respondent against the order of 2nd respondent. The 2nd respondent by an order dated 18-9-81 rejected the appeal. The applicant had thereupon filed Writ Petition No.1100/81 which has been transferred to this Tribunal and numbered as TA No. 137/86. This Tribunal by an order dated 18-7-88 remanded the matter back to the appellate authority and directed the appellate authority to reconsider the applicant's case keeping in view Rule 22(2) of the Railway Servants (D & A) Rules and the observations made in Ramchandea's case extracted therein and to pass a reasoned order. A direction was also given that the applicant shall be given a personal hearing, if he desires. Thereupon, the appellate authority passed the order dated 4/5-11-88

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rejecting the appeal and confirming the penalty of removal from service with effect from 31-1-1980. It is these orders of the 2nd respondent and the appellate authority which are now sought to be questioned in this application. The main ground raised in this applicant is that there is no proper disposal of the appeal of the applicant by the appellate authority.

3. On behalf of the respondents a counter has been filed stating that the order of the appellate authority is in accordance with the rules and it is a reasoned order. The appellate authority after carefully considering the matter has come to the conclusion that the order of penalty has to be confirmed.

4. We have heard Shri A.C.Lakshmana Char, learned counsel for the applicant and Shri N.R.Devaraj, Standing counsel for Railways.

5. The 1st contention raised by Shri Laxmana Char is that the appellate authority had not given a personal hearing to the applicant before disposing of the appeal after remand by this Tribunal. Shri Devaraj contends that the applicant had never asked for a personal hearing. It is further stated that the applicant had made a representation on 2-9-1988 wherein he only requested that an early disposal should be given to the matter. No other grounds have been raised, ^{merit of} except pleading for mercy. A perusal of the letter dated 2-9-1981 discloses that the applicant had never asked for a personal hearing before the appellate authority. It is thus clear

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that the contention of the applicant that he ought to have been given a personal hearing before the disposal of the appeal is wholly untenable.

6. Apart from this the main ground raised is that the applicant has been forced by the Enquiry Officer to admit his guilt and that consequently the report of the Enquiry Officer and penalty order of the disciplinary authority are vitiated. These aspects have been duly considered by the appellate authority who has given valid reasons for coming to the conclusion that the applicant can have no grievance on this score. He has also considered the enquiry officer's report, quantum of punishment, etc and passed a final order as required under Rule 22(2) of the Railway Servants (Discipline and Appeal) Rules. We, therefore, find no infirmity in the procedure followed and there is no merit in the case. The application is accordingly dismissed. no costs.

(Dictated in open court)

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

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

Dt.20th Feb.1990.

SQH*

TO:

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~~Hyderabad~~

1. The General Manager, S.C.R., Rail Nilayam, Sec'bad.
2. The Divisional Railway Manager, Hyderabad Division, DRMMG, SCR, Sec'bad.
3. The Chief personnel officer, SCR, Sec'bad.
4. One copy to Mr.A.C.Lakshmana char, Advocate, 1-1-385-44, Gandhinagar, Hyderabad-380.
5. One copy to Mr.N.R.Devaraj, SC for Rlys., CAT, Hyd.
6. One spare copy.

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kj.

*unstamped
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Draft by: Checked by: Approved by
D.R.(J)

Typed by: Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

HON'BLE MR.B.N.JAYASIMHA: (V.C.)
A N D

HON'BLE MR.D.SURYA RAO: MEMBER (JUDL-)
A N D

HON'BLE MR.J.NARASIMHA MURTHY: (M) (J)
A N D

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

DATED: 20.2.90

ORDER/JUDGMENT:

M.A./R.A./C.A./No. in

T.A.No. (W.P.No.)

D.A.No. 37188

Admitted and Interim directions issued.

Allowed.

Dismissed, No costs.

Disposed of with direction.

M.A. Ordered.

No order as to costs.

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