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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.No.575 of 1989

Date of Order 12.10.1989.

M.Rajanarasaiah

....Applicant

Versus

The General Manager,
South Central Railway,
Secunderabad & 2 others

....Respondents

Counsel for the Applicant : Shri V.Venkateswara Rao, Advocate

Counsel for the Respondents : Shri N.R.Devaraj, Secy for Railway

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Honourable Shri D.Surya Rao, Member (Jud1) (I)
AND

Honourable Shri D.K.Chakravorthy, Member (Admn)

(Judgment of the Bench delivered by Hon'ble
Shri D.Surya Rao, Member (J) (II)).

The applicant herein is an Assistant Station Master, of South Central Railway. He seeks to question the memorandum No.C/T-194/I/2/WA/89 dated 22-05-1989, wherein certain charges were levelled against him. The charges framed against him are as follows :-

CHARGE-I

He prepared the skeleton pay sheets for the staff of KOLR including himself for the months from August, 1988 to November, 1988 indicating his pay as Rs.1560/- instead of Rs.1520/- in scale Rs.1400/- to Rs.2300/- (RSRP) with a malafide intention.

CHARGE-II

He has drawn 1st class passes as detailed below for which he was not eligible :

- i) Special Duty 1st class pass No.956009 dt.11/9/1988 Ex.Kolr to SC and back for periodical Medical Examination.

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ii) Ist class privilege pass No.393605 dt.29-12-1988 Ex.NDLS to SC and for his family and self.

iii) Ist class pass No.956035 dt.1-1-89 Ex.KCLR to SC and back for receiving Cash Award from DRM on 2-1-1989.

CHARGE-III: framing of the present charge

Shri Rajanarasaiah claimed OTA showing his basic pay as Rs.2000/- instead of Rs.1520/- for the period ending 10-9-88 to 24-9-89 with a malafide intention of getting OTA at higher rate than admissible.

Earlier to the framing of the present charges an enquiry was held against the applicant and he was imposed a punishment of withholding of his increments by an order dated 24-09-1986. It is contended in this application that this order of punishment was mis-construed and consequently has given rise to the framing of charges. It is contended that on a proper construction of an order of punishment, there is no warrant for framing of the charges.

2. We had given notice and heard the learned counsel for the applicant Shri V.Venkateswara Rao and learned standing counsel for Railways Shri N.R.Devaraj, at length, even at the stage of admission as to whether the charges are ex-facie illegal and liable to be quashed. The facts as narrated disclose that on 24-09-1986 an order was passed that the applicants' increment in Gr.425-640 (pre revised) i.e. increment raising his pay from Rs.485 to Rs.500 due on 1-8-87 should be withheld for six years without postponing future increments.

Before the order could be implemented the new scales of pay were introduced with effect from 1-1-1986. Consequently the applicant's pay ~~was~~ fixed at Rs.1480/- in the new scale Rs.1400-2300 on 1-1-86. This is clear from the extract of the service register filed. The service register also discloses that his pay was increased to Rs.1520/- on

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01-08-1986 the date of his normal increment. It also discloses that the increment raising his pay from Rs.1520 to Rs.1560 due on 01-08-1987 was withheld for a period of six years pursuant to the punishment order dt.24-09-1986. Sri Venkateshwar Rao initially contended that only the increment in the scale of Rs.425-640 due on 01-08-1987 could be withheld but not the increment due in the revised scale (Rs.1400-2300) due on 01-08-1987. This contention is obviously untenable as the punishment imposed is stoppage of the increments due on 01-08-1987. The fact that the revision of scales took place would not absolve the applicant of his guilt or wipe out the effect of the punishment order. It is then contended that the punishment order only prescribes stoppage of one increment due on 01-08-1987 ~~viz.~~ ^{and therefore} all that the authorities could do is to stop the increment due on 01-08-1987. But this does not mean that future increments due on 01-08-1988, 01-08-1989 etc., ~~etc.~~ ^{and} also be stopped. He contends that this is not the intention of the order of punishment dt.24-09-1986 and as such the present charge No.1framed is based on the assumption that he cannot draw the increment due on 01-08-1988 is illegal and liable to be quashed. To consider this contention it would be useful to refer to the Government of India instructions issued by the D.G.P.&T on this matter. They read as follows :-

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(22) Whether all the increments or only one increment to be withheld during the currency of penalty.—When the penalty of withholding of increment is awarded to an employee, it is obligatory on the part of the disciplinary authority to specify the period for which the penalty should remain current. A doubt has been raised whether in such a case, all the increments falling due during the currency of the penalty or only one increment should remain withheld during the specified period. It is clarified that an order of withholding of increment for a specified period implies withholding of all the increments admissible during that specified period and not the first increment only.

[D.G., P & T's letter No. 6/4/55-Disc., dated the 27th October, 1965.]

It is further clarified that where an order of penalty purports to withhold the 'next increment' for a specified period, it implies that all the increments falling due during that period would be withheld, because without getting the next increment, an officer cannot get increments falling after the 'next increment'. All disciplinary authorities should, therefore, ensure that orders of penalty are correctly worded in accordance with their intention. Thus, if it is intended that only one increment should be withheld over a specified period it should not be stated in the order that the 'next increment' be withheld for a specified period. The proper course of action in such a case would be to specifically order that 'one increment' be withheld for a specified period instead of ordering that the 'next increment' be withheld for a specified period. Such an order will have the effect of withholding one increment only over a specified period and the official concerned will be able to draw the subsequent increments falling during the period, of course, depressed by the one increment which is withheld.

[D.G., P & T letter No. 20/41/66-Disc., dated the 14th April, 1967.]

3. The question therefore would depend upon the wording of the order of punishment viz., whether it directs stopping of only one increment for the specified period of six years or all increments which accrued after 01-08-1987 for a period of six years. It would be relevant in this context to look into the order of the disciplinary authority dated 24-09-1986 which reads as follows :-

" Accordingly, I have decided to impose upon you the penalty of withholding of increments. Your increments raising your pay from Rs.485/- to Rs.500/- in the Grade of Rs.425-640 (RS) normally due on 01-08-1987 is therefore withheld for a period of six years without postponing your future increments."

4. From a reading of the punishment order it is

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clear that the next increment raising the pay of the applicant to Rs.485 to Rs.500/- (Rs.1520/- to Rs.1560/- in the revised scale) is withheld. If it is stopped at that stage it would by the reasoning in D.G.P & T letter dated 14-04-1967 referred to above normally mean that the increments falling due for the next six years should also be withheld because without getting the next increment an officer cannot get an increment falling after the next increments. However the order of the Disciplinary Authority does not stop with mere by withholding the next increment in the Grade from Rs.485/- to Rs.500/-, it goes on to add that the liability of postponing the future increments should not apply. From this clause in the punishment order i.e. non-postponement of future increments, it is clear that the intention of the punishing authority was not to deny the applicant all subsequent increments other than the increment which fell due on 01-18-1987. This is the only interpretation to the clause "without postponing future increments". It would therefore follow if the applicant had prepared a skeleton pay sheet showing that he is entitled to pay of Rs.1560/- from 01-08-1988, such a claim would not be illegal. Charge No.1 as framed is therefore not maintainable and is quashed.

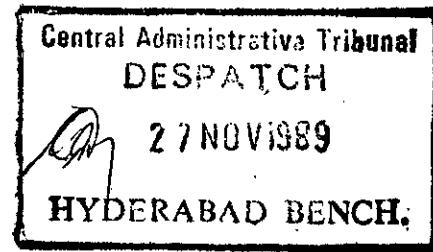
5. In so far as charge 2 is concerned the applicant has stated that he is entitled to a first class



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To

- 1). The General Manager, South Central Railway, Railnilayam, Secunderabad-500371.
- 2). The Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad-500371.
- 3). The Divisional Operating Superintendent, South Central Railway, Secunderabad (Broad Gauge) Division, Secunderabad.
- 4). One copy to Mr. V. Venkateswara Rao, Advocate, 1-1-284/2, Chikkadpally, Hyderabad-500020.
- 5). One copy to Mr. N. R. Devaraj, SC for Railways, CAT, Hyderabad.
- 6). One copy to Hon'ble Mr. D. K. Chakfavorty, Member(J), CAT, Hyderabad.
- 7). One spare copy.



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pass consequent on his basic pay increased to Rs.1560/-

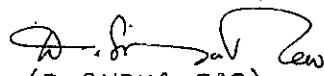
as per pass rules. In regard to charge-III ^{being} ~~claims~~

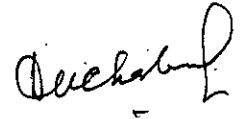
officiating in the grade of Rs.2000-3200 as Station

Superintendent as therefore allowed to over time allowance
at higher grade for the period 01-09-1988 to 24-09-1988.

In our opinion these matters constitute defences ^{the validity of} which are

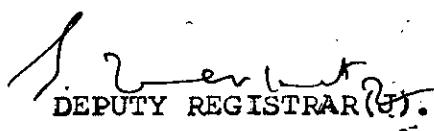
to be determined by the Enquiry Officer. We cannot at this
stage determine whether the applicant is entitled for first
class pass ^{or} and the higher rate of over time allowance. We
would therefore quash charge No.1 alone as framed. In so
far as charges 2 and 3 are concerned it is open to the
applicant to raise the various contentions or defences
before the concerned Enquiry Officer or the Disciplinary
Authority. With these directions the application is
allowed partly and disposed-of and there will be no order
as to costs.


(D. SURYA RAO)
Member (J1)


(D.K.CHAKRAVORTHY)
Member (Admn)

Dated 12th October, 1989.

AVL.


DEPUTY REGISTRAR (S)
17/11/89

P.T.O.

10/11/89