

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

D.A.No.187/90

T.A.No.

Dt. of Decision: 17-6-93

Smt.V.Padma Williams,

Petitioner

M/s D.Ramachandra Rao & M.Rama Rao

Advocate for
the Petitioner
(s)

Versus

The General Manager, S.C.Rails, Sec'bad
& 3 others

Respondent.

Sri N.R.Devraj,

Advocate for
the Respondent
(s)

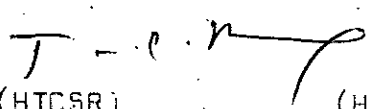
CORAM:


THE HON'BLE MR. A.B.GORTHI : MEMBER (A)

THE HON'BLE MR. T.CHANDRASEKHAR REDDY : MEMBER (J)

1. Whether Reporters of local papers may
be allowed to see the judgment? ✓
2. To be referred to the Reporters or not? ✓
3. Whether their Lordships 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.)

avl/


(HTCSR)
M(J)


(HABG)
M(A)

(46)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA 187/90.

Dt. of Order: 17-6-93.

Smt.V.Padma Williams

....Applicant

Vs.

1. Union of India per General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. Chief Medical Officer, South Central Railway, Rail Nilayam, Secunderabad.
3. Divisional Railway Manager, South Central Railway, Vijayawada.
4. Medical Superintendent, Railway Divisional Hospital, South Central Railway, Vijayawada.

....Respondents

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Counsel for the Applicant : M.V. G. Ramachandra Rao

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

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CORAM:

THE HON'BLE SHRI A.B. GORTHI : MEMBER (A)

THE HON'BLE SHRI T. CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Divn. Bench passed by Hon'ble Sri A.B. Gorthi, Member (A)).

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Aggrieved by the penalty of reduction to the lower
4 grade of Staff Nurse in the scale of Rs.425-640 imposed upon
her, the applicant has filed this application with a prayer
that the penalty imposed by the Disciplinary Authority as
modified by the Appellate and Reviewing Authority be set
aside.

.....2.

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2. When the applicant was working as Nursing Sister she was suspended from duty with effect from 18-12-85. She was served with a charge memo dt.11-7-86. A regular Departmental Enquiry was conducted at the end of which the Enquiry Officer found her not guilty of ^{the} charge. The Disciplinary Authority remitted ^{the} case back to the Enquiry Officer but even thereafter the Enquiry Officer once again found her not guilty of charge. Notwithstanding ^{the} same, and without giving any prior notice to the applicant, the Disciplinary Authority vide order dt.28-4-87 imposed punishment of reduction to the lower stage for a period of two years. On appeal the Appellate Authority modified the punishment of reduction to lower stage for two years as "recurring without loss of seniority". On a petition to the revising authority the said authority further modified the punishment as "non-recurring and without loss of seniority".

3. Sri G.Ramachandra Rao, learned counsel for the applicant assailed the validity of the penalty essentially on two grounds. Firstly he contended that the Respondent No.4 who is the Medical Superintendent was not the competent authority to impose a major penalty in respect of the applicant. In this context Sri N.R.Devraj, learned counsel for the Respondents has drawn our attention to the verification stated in the counter affidavit. According to the Respondents the Medical Superintendent is an Officer of Junior Administrative Grade and in accordance with the relevant rules is the competent authority to impose a major penalty on Nursing Sister.

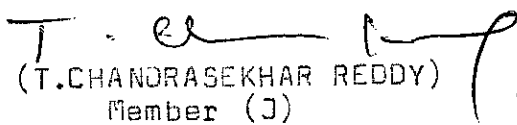
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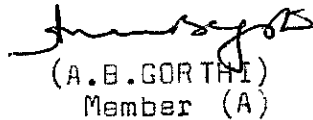
4. The next contention raised by the applicant's counsel is that although the Enquiry Officer repeatedly found the applicant not guilty of charge, the Disciplinary Authority dis-agreed with the Enquiry Officer's findings and came to the conclusion that the applicant was guilty. Sri G.Rama-chandra Rao contends that the Disciplinary Authority is not justified in disagreeing with the Enquiry Officer's findings without any additional material before him and that in any case he could not have disagreed with the Enquiry Officer's findings without first giving prior notice thereof to the applicant. We find that there is merit in this contention. We are supported by Judgment of the Hon'ble Supreme Court in the case of Narayan Mishra Vs. State of Orissa (1969 (3) SLR page-657). In that case it was held that where the Disciplinary Authority dis-agrees with the findings of the Enquiry Officer he ought to give prior notice of it to the delinquent employee and ^{sure} fail to do so is amounts to violation of the rules of fair play and the principles of natural justice. Accordingly we must hold that the action of the Disciplinary Authority in imposing the penalty in violation of principles of natural justice as aforesaid cannot be ^{said} ~~held~~ to be valid. The order of the Disciplinary Authority and the orders of the Appellate and Reviewing Authorities modifying the penalty imposed by the Disciplinary Authority are all there-by

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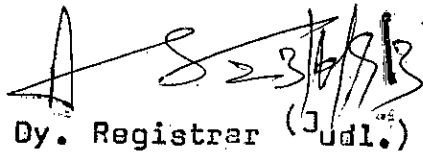
set aside. We however made it clear that it will be open to the competent Disciplinary Authority to proceed further with the ~~enquiry~~ ^{disciplinary proceedings} after giving sufficient notice to the applicant.

5. The application is allowed in the above terms without any order as to costs.


(T. CHANDRASEKHAR REDDY)
Member (J)


(A.B. GORTHI)
Member (A)

Dated: 17th June, 1993.
Dictated in Open Court


Dy. Registrar (Judl.)

avl/

Copy to:-

1. General Manager, South Central Railway, Union of India, Rail Nilayam, Secunderabad.
2. Chief Medical Officer, South Central Railway, Rail Nilayam, Secunderabad.
3. Divisional Railway Manager, South Central Railway, Vijayawada.
4. Medical Superintendent, Railway Divisional Hospital, South Central Railway, Vijayawada.
5. One copy to Sri. G. Ramachandra Rao, advocate, CAT, Hyd.
6. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
7. One spare copy.

Rsm/-

O.A. 187/90

TYPED BY *957*

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CHECKED BY APPROVED BY

HYDERABAD BENCH

HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. *A. B. Goshai* ~~R. BALASUBRAMANIAN~~:M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:M(J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: *17/6/* 1992

ORDER/JUDGMENT:

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

O.A.No.

T.A.No.

(W.P.No.)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

pvm.

