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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.332/90.

Date of Judgment 19-4-91

G.V.Elisha

.. Applicant

Vs.

1. Union of India per
General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.
 2. Divisional Railway Manager,
South Central Railway,
Vijaywada.
 3. Senior Divisional
Commercial Superintendent,
South Central Railway,
Vijaywada.
 4. Divisional Commercial
Superintendent,
South Central Railway,
Vijaywada.
- .. Respondents

Counsel for the Applicant : Shri G.Ramachandra Rao

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

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This application has been filed by Shri G.V.Elisha
under section 19 of the Administrative Tribunals Act, 1985
against the Union of India per General Manager, South Central
Railway, Rail Nilayam, Secunderabad and 3 others.

2. The applicant who, at the relevant time, was working as
Travelling Ticket Examiner (T.T.E.) attached to the Special

Squad of the South Central Railway, Vijaywada was suspended vide proceedings dated 19.1.85 on the ground that disciplinary proceedings were contemplated against him. After 1 year 4 months, a charge-memo dated 10.5.86 was issued to the applicant alleging that the applicant while working as T.T.E. during the period 20.1.84 to 16.1.85 committed serious offence in not remitting the extra fare ticket amounts collected during the said period and either failed to enclose the money receipts or produce the forged photostat copies of the money receipts. The applicant submitted a reply on 10.6.86 requesting the 4th respondent to furnish copies of the documents referred to in the charge-memo. Against the four documents listed in the charge-memo only two were made available for inspection by the applicant. The other two were not made available to him. He had also asked for a copy of the complaint or report given by the person cited as a witness in the charge-memo. It is stated that in view of the fact that he was not furnished with the required documents or copy of any complaint or report on which the charge-memo was passed and issued to the applicant, the applicant was put to great difficulty and handicap and he was not in a position to defend himself properly. However, an Inquiry Officer was appointed and he conducted the enquiry in two sittings. Apart from Shri D.Raja Rao, Head Travelling Ticket Examiner, whom the respondent had cited as witness, nobody else was examined. A copy of the enquiry report was also not given to the applicant. After a further delay of nearly 2 years 2 months punishment order

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dated 8.9.89 was passed against the applicant removing him from service. The applicant asked for a copy of the enquiry report and on getting it preferred an appeal on 17.10.89. This was rejected by the 2nd respondent on 21.3.90. Aggrieved by the order of removal, the applicant has approached this Tribunal praying that the punishment order as well as the rejection of the appeal thereon be quashed and that he be reinstated with all consequential benefits.

3. The application is opposed by the respondents. It is their contention that the charges levelled against the applicant had been proved beyond doubt and that the punishment order issued by the competent authority is quite in order as also the subsequent rejection of the appeal preferred by the applicant.

4. The applicant has also filed a rejoinder to the counter filed by the respondents.

5. One ground raised by the applicant is that in respect of Charge-I wherein he had cancelled an excess fare ticket and refunded Rs.100/- to the passenger he had acted in good faith because the head of the family travelling fell sick and preferred the complaint. The charge in the case is that the applicant overstepped his limits and refunded the amount when it was not in his authority to do so. It is not the charge that he had embezzled the amount. The amount being small, such an act in good faith to help a passenger in distress should have been viewed more kindly. On the contrary such things when resorted to very rarely and for bonafide reasons will only improve the image of the Railways.

6. As for the other charges, the main ground that the applicant has come up with is that he was not given the benefit of examining and taking copies of the documents 2 and 4 listed in annexure III to the charge-sheet. These are very essential documents because all the three charges 2, 3 and 4 depend on these documents. The failure of the respondents to make these documents available for inspection by the applicant particularly when they had chosen to rely on these to establish the charge, is a serious shortcoming in the conduct of the enquiry and is a clear case of denial of opportunities to the applicant to defend himself. We have, therefore, no hesitation in holding that the enquiry is vitiated.

7. The other points raised by the applicant are that the charge-sheet was issued by an authority outside his competence and that the punishment order has not been signed by the competent authority. We do not accept the contention of the applicant because the charge-sheet has been issued by an authority who is well within his right to do so according to the schedule of powers contained in the D&A Rules. Also, the punishment order has been signed by the Senior Divisional Commercial Superintendent who is an officer of the Junior Administrative Grade and who is competent to sign such an order.

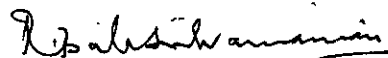
8. The applicant has also raised a point that the final punishment order should be issued under the signature of the General Manager. He has also pointed out that the enquiry report was not given to him before passing of the punishment order.

order. We are not going into these aspects since it is not necessary to do so ~~that~~ in view of the fact we have decided to give him the relief sought for on the ground that the enquiry is totally vitiated for non-furnishing of the essential documents to defend his case.

9. In the result, the application is allowed and we quash the punishment order as well as the appellate order. The respondents are directed to provide all the consequential benefits to the applicant in the light of this order. The order in this application may be implemented within a period of two months of ^{its} receipt. There is no order as to costs.



(J. Narasimha Murthy)
Member (Judl).



(R. Balasubramanian)
Member (Admn).

Dated

19th April 91


Deputy Registrar (Judl)

To

1. The General Manager, South Central Railway
Union of India, Railnilayam, Secunderabad.
2. The Divisional Railway Manager, S.C. Railway, Vijayawada.
3. The Senior Divisional Commercial Superintendent,
South Central Railway, Vijayawada.
4. The Divisional Commercial Superintendent, S.C. Rly, Vijayawada.
5. One copy to Mr. G. Ramachandra Rao, Advocate, CAT. Hyd. Bench.
6. One copy to Mr. N. R. Devraj, SC for Rlys, CAT. Hyd. Bench.
7. One copy to Hon'ble Mr. J. Narasimha Murthy, Member (J) CAT. Hyd.
8. One copy to Hon'ble Mr. R. Balasubramanian, Member (A) CAT. Hyd.
9. One spare copy.

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5/10/91