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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.347/90

Date of Order: 22.9.1993

BETWEEN:

1. K.Elisha Rao

.. Applicant.

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1. Union of India, rep. by
the Secretary, Ministry
of Transport, Department
of Railways, New Delhi.
2. Divisional Railway Manager (P)
South Central Railway,
Vijayawada, Krishna Dt. (AP).
3. Assistant Commercial Superintendent,
South Central Railway,
Vijayawada, Krishna Dt. (AP). .. Respondents.

Counsel for the Applicant

.. Mr.T.V.V.S.Murthy

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

HON'BLE SHRI A.B.GORTHY : MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.P).

The applicant herein is the Corridor Coach Attendant (CCA), South Central Railway, Vijayawada. He had earlier filed O.A.182/86 questioning the imposition of penalty of reduction to Lower Grade Porter in the scale of Rs.196-232 on a pay of Rs.196/- for a period of 5 years with loss of seniority. The OA was disposed of with a direction to the appellate authority to consider the appeal of the applicant, give him a personnel hearing and dispose of the appeal by means of a speaking order. The applicant did not ask for a personnel hearing before the appeal was considered and disposed of on 19.3.1990 by means of a reasoned order. The appellate authority reduced the penalty of reduction to the lower grade of porter for a period of 2 years only with loss of seniority.

2. Mr.T.V.V.S.Murthy, learned counsel for the applicant assailed the enquiry proceedings and the resultant punishment on several grounds. Firstly he contended that no Presenting Officer was appointed during the enquiry but the enquiry officer himself acted as the Presenting Officer also. He has further submitted that the penalty combining reduction to a lower grade and also loss of seniority would amount to double jeopardy. We are not inclined to accept either of these ^{two} ₁ contentions and we reject the same

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because we find that there is no substance in either of these two contentions.

3. The applicant's counsel took us through the enquiry proceedings and contended that this was a case of no evidence at all. He, therefore, submitted that the enquiry officer rightly came to the finding that the charge against the applicant was not proved. The disciplinary authority however disagreed with the enquiry officer's finding, and in doing so, did not even give an opportunity to the applicant to explain why the applicant should not be found guilty on the material on record. We find that there is sufficient merit in both these contentions raised by the learned counsel for the applicant. We have carefully perused the record and we find that the material witness in this case was Sri P.S.N.Chowdary who was the passenger who is said to have travelled unauthorizedly in the coach where the applicant was the CCA on duty. The said witness was not examined and the alleged complaint of the witness was admitted to be brought on record to prove the charge against the applicant. Sri P.Suryanarayana who was examined as PW1 did not say anything as would disclose the culpability of the involvement of the applicant. Similarly the statement of the Vigilance Inspector Sri B.K.Singh also did not show how the applicant was responsible for the manner in which Sri P.S.N.Chowdary managed to travel in the coach without a proper ticket. In view of the lack of evidence the enquiry officer, in our opinion, very

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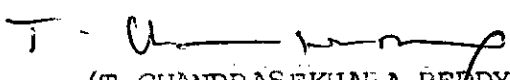
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rightly came to the conclusion that the charge against the applicant was not proved. We are therefore, unable to agree with the conclusion arrived at by the disciplinary authority holding the applicant guilty of the charge, more so, when he came to such a conclusion without giving an opportunity to the applicant to offer his explanation in that regard. Even a perusal of the order of the appellate authority would indicate that the appellate authority came to the conclusion that the applicant was not able to "establish his innocence". Such an approach cannot be said to be ^{in consonance} with law.

4. In view of what is stated above, we hereby set aside the penalty imposed on the applicant as also the order of the appellate authority dated 19.3.1990 rejecting the appeal of the applicant. The applicant will be entitled to the consequential benefits.

5. The O.A. is disposed of, there shall be no order as to costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn.)

Dated: 22nd September, 1993

(Dictated in Open Court)


Deputy Registrar

To sd

1. The Secretary, Union of India, Ministry of Transport, Dept. of Railways, New Delhi.
2. The Divisional Railway Manager (P) S.C.Rly, Vijayawada, Krishna Dt
3. The Assistant Commercial Superintendent, S.C.Rly, Vijayawada Krishna Dist. (AP)
4. One copy to Mr. T. Jayant, Advocate, CAT. Hyd.
5. One copy to Mr. N.R. Devraj, SC. for Rlys. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

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

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 22-9-1993

~~ORDER~~/JUDGMENT:

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

in

O.A.No. 347/90.

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

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Refected/Ordered.

No order as to costs.

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