

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNA  
HYDERABAD BENCH : AT HYDERABAD

O.A.No.477/90.

Date of Judgment: 21-06-1990.

G.Jeeva Raju,

....Applicant

vs.

1. The Deputy Chief Mechanical Engineer,  
Wagon Workshop, Guntupalli.
2. The Works Manager,  
Wagon Work Shop, Guntupalli.

....Respondents

- - -

Counsel for the Applicant : Shri P.Krishna Reddy

Counsel for the Respondent : Shri NR Devaraj, SC for Rlys.

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CORAM:

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

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

( Judgment of the Bench delivered by  
Hon'ble Shri BN Jayasimha, Vice-Chairman)

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( The Miscellaneous Application for condoning  
the delay heard on both sides. In the circumstances  
delay is condoned. Accordingly M.A. is allowed).

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The applicant herein was working as HSK Gr.I  
in the Wagon Workshop, Guntupalli, Vijayawada Division,  
South Central Railway. He has filed this application  
questioning the order No.Gr./P.227/23072/WR/13/BOX  
dated 24-9-1988 removing him from service. He states

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that a Criminal Case was instituted against him on the ground that he was in illegal possession of Railway properties. The Criminal Case ended in his conviction <sup>and</sup> on 19-4-1982, thereafter he preferred an appeal in No.C.A.110/88 before the II Additional District & Sessions Judge, Vijayawada. <sup>The appellate court confirmed his conviction and sentence.</sup> The Criminal Review Petition <sup>was preferred</sup> <sup>and</sup> against the Judgment in Criminal Appeal No.110/88, the said Criminal Review Petition is still pending. During the pendency of this Criminal Review Petition, the second respondent issued notice to him in his proceedings dated 6-9-1988 proposing to take action against him under rule 14(1) of the Railway Servants Discipline & Appeal Rules, 1968 consequent to his conviction in the Criminal Court. It was <sup>proposed that</sup> ~~preferred them~~ a penalty of removal from service would be imposed on him. He submitted his explanation stating that the Criminal Appeal was pending. The Respondent No.2 without considering <sup>and</sup> passed the order dated 24-9-88 <sup>imposing</sup> ~~imposing~~ the punishment of removal from service with effect from 30-9-88. Thereafter <sup>the</sup> ~~he~~ <sup>applicant</sup> preferred an appeal dated 11-11-1988 to the respondent No.1 against the order of the Respondent No.2. That appeal has not been disposed off. Even though the appeal has not been disposed of by the Ist respondent, <sup>though</sup> Criminal Revision Petition is also pending before the Hon'ble High Court, the applicant is

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being asked to vacate the Railway Quarters occupied by him at Rayanapadu Railway Colony. Aggrieved by this order, he has filed this application.

3. ~~Shri Krishna Reddy~~, <sup>counsel for the applicant</sup> argues that the Department having waited till the disposal of the Criminal Appeal for taking action against the applicant, ought not to have taken action to pass the impugned order before the Criminal Revision Petition is disposed by the High Court.

We see no merit in this contention. There is no bar in initiating departmental proceedings against a Government Servant, who has been convicted <sup>by a</sup> in Criminal Court, soon after conviction. If the Criminal Appeal is allowed,

the applicant can make <sup>a</sup> representation for his re-insta-  
as long as <sup>as long as</sup> <sup>the conviction is not made subsisting</sup>  
tement, <sup>and</sup> <sup>there is no bar</sup> <sup>to</sup> the department for taking

action against the applicant on the basis of the conviction passed by the Trial Court. The next point urged by Shri Krishna Reddy is that the applicant submitted his appeal to the appellate authority and the appellate authority has not passed any order on the said appeal

so far in compliance with rule 22 of the Railway Servants Discipline and Appeal Rules. <sup>He contends that</sup> The appellant could not

be evicted from his quarters without disposing of his appeal. By not passing an order on his appeal, the applicant has been denied the statutory right of appeal provided under the rules. Shri Devaraj states that at

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this stage, he has no instructions whether the appeal has been considered by the appellate authority and disposed of or not.

4. Having regard to the facts andcircumstance's of the case, we direct the Ist respondent to dispose of the appeal preferred by the applicant dt.11-11-1988 expeditiously if not already disposed of after giving an opportunity to the applicant of being heard personally. The applicant will not be evicted from the Railway Quarters, in his occupation till the appeal is disposed-off.

5. The O.A. disposed-off with the above observations. No order as to costs.

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

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

Dated : 21st June, 1990.  
Dictated in Open Court.

*Evelyn Ram Raju*  
Deputy Registrar (J)

AVL/

To:

1. The Deputy Chief Mechanical Engineer, Wagon workshop, Guntupalli.
2. The Worksh Manager, Wagon work shop, Guntupalli.
3. One copy to Mr.P.KrishnaReddy, Advocate, 3-5-899, Himayatnagar, Hyderabad.
4. One copy to Mr.N.R.Degaraj,SC for Railways, CAT,Hyd.
5. One spare copy.

...  
k.j.

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CHECKED BY *RMS*

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABADTHE HON'BLE MR. B.N. JAYASIMHA: V.C.  
AND  
THE HON'BLE MR. D. SURYA RAO: MEMBER (JUDL.)  
AND  
THE HON'BLE MR. J. NARASIMHA MURTHY: M(J)  
AND  
THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATE : 21-6-90

## ORDER / JUDGMENT

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

T.A. No.

W.P. No.

O.A. No. 492190

Admitted and Interim directions Issued.

Allowed.

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. ordered/Rejected.

No order as to costs.

