

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::
AT HYDERABAD

O.A.No.536/90.

Date of Decision: 10-2-92.

S.K.Harshavardhana Rao Applicant

Vs.

1. Assistant Works Manager, Wagon Workshop, S.C.Rly., Guntupalli.
2. Deputy Chief Mechanical Engineer, Wagon Workshop, South Central Railway, Guntupalli.
3. CWE (Chief Works Engineer) 1st floor, Above Syndicate Bank, Rail Nilayam, S.C.Rly., Sec'bad.
4. Works Manager, Wagon Workshop, S.C.Rly., Guntupalli. .. Respondents

For the applicant : Shri G.V.Subba Rao, Advocate.

For the respondents : Shri N.R. Deva Raj, Standing Counsel for S.C.Rly.

CORAM:

HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN.)

HON'BLE SHRI C. J. ROY, MEMBER (JUDL.)

X JUDGMENT OF THE BENCH AS PER HON'BLE SHRI C.J.ROY, MEMBER (J) X

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This is an application filed under section 19 of the Administrative Tribunals Act, 1985 to call for the records pertaining to proceedings No.GR/P.227/23205/Box/86/28 dated 24-9-1988 and to quash the same by declaring the proceedings dt. 4-1-1989 in GR/P.227/23205/Box/86/28 passed by 2nd respondent and proceedings dt. 8-7-1989 of Reviewing Authority communicated by proceedings dt. 19-6-1989, as illegal, arbitrary and unconstitutional.

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2. The applicant while working as Fitter in Wagon Workshop, Guntupalli was issued with a charge-sheet dated 1-6-87 for unauthorised absence. The applicant alleges that the charge-sheet does not disclose the particulars of unauthorised absence and that the copies of documents listed under Annex.III to the charge sheet were not supplied to him inspite of his request. The applicant states that the enquiry was conducted by the Enquiry Officer, and alleges that the copies of documents requisitioned were not supplied to him and also that no explanation was submitted to the charge-sheet. The applicant, states that, however, he participated in the enquiry and explained the reasons for his absence. The applicant averred that based on the enquiry report, the Works Manager, Guntupalli Wagon Workshop imposed the penalty of removal from service with effect from 7-10-1988 by proceedings dt. 24-9-1988 bearing No.GR/P.227/23205/Box/86/28 and that copy of enquiry report was not furnished while imposing the said penalty on him. It is alleged that the principles of natural justice have been violated as he was not given the opportunity to properly defend the case. The applicant states that he preferred an appeal to the appellate authority without reference to enquiry report and having failed before the said authority and subsequently before the Reviewing authority, he has filed the present O.A.

3. The respondents filed counter affidavit and justify their action, and deny the allegations made by the applicant. The respondents deny the allegation of the applicant that no enquiry report was furnished to him and state that the enquiry report was furnished to the applicant along with the penalty order dt. 24-9-1988. The respondents also state the appeal and revision petition filed by the applicant are dealt in accordance with the rules and that the penalty imposed on the applicant was upheld by the said authorities also.

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4. The applicant filed material papers viz. impugned order dt. 24-9-1988 bearing No.GR/p.227/23205/Box/86/28, Order of the appellate authority dt. 4-1-1989, Order dt. 8-7-1989 of Reviewing Authority, and Memorandum of Charge-sheet dt. 1-6-1987. The respondents have also filed copy of the punishment order dt. 24-9-1988.

5. We heard Shri G.V.Subba Rao, learned counsel for the applicant and Shri N.R.Deva Raj, learned counsel for respondents, and perused the records carefully. During the course of arguments our attention was drawn to the fact that the enquiry report was not furnished to the applicant, by the learned counsel for the applicant. The material on record filed by the applicant do not disclose that the enquiry report was furnished to the ^{in applicants along with the} impugned order of punishment. The respondents deny the said fact, but state that the enquiry report was furnished along with the punishment order. This straightaway attracts the law laid down by the Hon'ble Supreme Court of India in Union of India and others Vs. Ramzan Khan, wherein it was observed that -

"We, therefore, come to the conclusion that supply a copy of the inquiry report along with recommendation if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to supply of a copy thereof."

Their Lordships further observed that -

"We make it clear that wherever there has been Inquiry Officer and he has furnished a report disciplinary authority at the conclusion of the holding the delinquent guilty of all or any of charges with proposal for any particular punishment or not, the delinquent is entitled to a copy

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report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter."

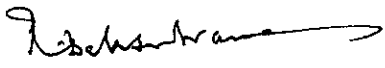
6. In the present case, the respondents though deny^{ing} the allegation that a copy of enquiry report was not furnished to the applicant, admit that the same is furnished along with the impugned order of punishment. The applicant, therefore, was not provided^{with} an opportunity to make a representation before passing the impugned orders of punishment. The action of respondents amounts to violation of rules of principles of natural justice. Therefore, applying the aforesaid principles in the ruling^s, it would follow that the impugned order dt. 24-9-1988 bearing No.GR/p.227/23205/Box/86/28 issued by the Works Manager, Wagon Workshop, Guntupalli (R-4) and subsequent orders passed in appeal and revision by the concerned authorities, is illegal and contrary to the provisions of natural justice and accordingly quashed.

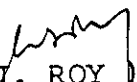
7. This, however, will not preclude the respondents from supplying a copy of the enquiry report to the applicant and give him an opportunity to make his representation and proceeding to complete the disciplinary proceedings from that stage. The application is allowed to the extent indicated above but in the circumstances we make no order as to costs. If the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how the period spent in the proceedings should be treated would depend upon the ultimate result. Nothing said herein would affect the decision of the Disciplinary authority. At the


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same time, we hasten to add, that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceeding. That is entirely left to the discretion of the Disciplinary Authority.

8. With the above directions, the application is disposed-of.


(R. BALASUBRAMANIAN)
MEMBER (A)


(C.J. ROY)
MEMBER (J)

Date: 10 - 2 - 1992  Deputy Registrar

grh.

To

1. The Assistant Works Manager,
Wagon Workshop, S.C.Rly, Guntupalli.
2. The Deputy Chief Mechanical Engineer,
Wagon Workshop, S.C.Railway, Guntupalli.
3. The Chief Works Engineer(CWE)
1st Floor, Above Syndicate Bank,
Railnilayam, S.C.Rly, Secunderabad.
4. The Works Manager, Wagon Workshop,
S.C.Rly, Guntupalli.
5. One copy to Shri G.V.Subba Rao, Advocate, CAT.Hyd.
6. One copy to Mr. N.R.Devraj, SC for Rlys.
7. One spare copy.

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TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V.C.
THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)
AND
THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
M(JUDL)
AND
THE HON'BLE MR. C. J. ROY : MEMBER(JUDL)

DATED: 10-2-1992

~~ORDER~~/JUDGMENT:

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

in

O.A.No. 536/90.

I.A.No. (W.P.No.)

Admitted and interim directions
issued:

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected

No order as to costs.

FVM.

