

(26)

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 919/90.

Date of Decision : 6-12-1990.

T.A.No.

\_\_\_\_\_ Petitioner.  
\_\_\_\_\_ Advocate for the  
petitioner (s)  
Versus  
\_\_\_\_\_ Respondent.  
\_\_\_\_\_ Advocate for the  
Respondent (s)

CORAM :

THE HON'BLE MR. B.N.JAYASIMHA : VICE-CHAIRMAN

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

1. Whether Reporters of local papers may be allowed to see the Judgement? *no*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal? *no*
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)

*BNJ*  
(BNJ)  
VE

*DSR*  
(DSR)  
M(J)

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Room Manager, Raichur in the scale of Rs.1200-2040, to the post of Assistant Catering Manager, Guntakal in the scale of Rs.975-1540 was served on him on 10-10-1990. The applicant contends that as no order of penalty in the DAR proceedings has been served on him, the order dt.10-10-1990 is illegal. Hence this application seeking setting aside the order dt.10-10-1990.

2. We have heard Shri P.Krishna Reddy, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for Railways, who has taken notice on 13-11-1990. Shri Ramana has placed the relevant records before us to-day. The main contention of Shri Krishna Reddy is that no order of the Disciplinary Authority reverting him has been served on him and the applicant is therefore not in a position to file any appeal against that order. Only an order revoking the suspension was sought to be served on the applicant and the applicant took objection to that order stating that the order bears no signature of the competent authority. Shri Ramana on the other hand contends that the disciplinary authority in his proceedings dt.11-9-90 had passed orders reverting the applicant and the applicant refused to receive the same. He also states that a copy of proceedings dt.10-10-90 of the disciplinary authority was also put on the notice board. As the applicant evaded to receive the order of penalty, he cannot contend that the transfer order dt.10-10-90 is illegal for the reason that the order of disciplinary authority is not served and perused the

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records. We see from the letter dt.14-9-1990 issued by the D.C.S., Guntakal to the Sr.Superintendent, Raichur that the applicant had met the D.C.S. on 11-9-1990 and informed the D.C.S. that the proceedings of the Disciplinary Authority order dt.22-6-1990 is not received by him. Thereupon the D.C.S., tried to serve the said order, but the applicant declined to receive the same. In these circumstances, it is clear that the applicant was aware that the disciplinary has passed the order and he should have taken a copy and prefer his appeal to the appellate authority. Shri Krishna Reddy however states that the respondents have not tried to serve a copy of the order on the applicant. On a consideration of these submissions, we find that as the applicant refused to take a copy of the penalty order when he was called to the office of D.C.S. on 11-9-1990, the order is deemed to have become effective from 11-9-90. In the result, the order dt.10-10-90 cannot be said to be invalid.

3. Shri Krishna Reddy states that as the applicant has so far not received copy of the penalty order, he has not been able to prefer an appeal. He pleas<sup>d</sup> that as statutory provision for filing an appeal is over, the respondents/ appellate authority be directed to entertain an appeal from the applicant. In the circumstances of the case the applicant is permitted to submit his appeal to the appellate authority within four weeks from the date of this order and

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20/10/90

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the appellate authority will dispose the same in accordance with the Railway Servants (Discipline & Appeal) Rules, even though this appeal is beyond the period prescribed. The learned standing counsel states that a copy of the punishment order dt.22-6-1990 will be given to the learned counsel of the applicant immediately.

4. The application is disposed-of with these directions.  
No order as to costs.

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

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

Dated: 6th December, 1990.  
Dictated in Open Court.

*A. S. Reddy*  
Deputy Registrar (J)

avl/

To

1. The Railway Board, rep. by its Chairman, Rail Bhawan, New Delhi.
2. The Chief Personnel Officer, SC Railway, Rail Nilayam, Secunderabad.
3. The Sr. Divisional Personnel Officer, South Central Railway, Guntakal.
4. The Divisional Commercial Superintendent, South Central Railway, Guntakal.
5. One copy to Mr. P. Krishna Reddy, Advocate, 3-5-899, Himayatnagar, Hyderabad - 29.
6. One copy to Mr. N.V. Ramana, SC for Railways.
7. One Spare Copy.

srr/

*Handwritten signature and date*

CHECKED BY *28/12/90* APPROVED BY  
TYPED BY COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. B. N. JAYASIMHA : V.C.  
AND

THE HON'BLE MR. D. SURYA RAO : M(J)  
AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)  
AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

DATE: ~~24-9-~~ 6/12/90 ✓

~~ORDER / JUDGEMENT:~~

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

~~in~~

~~T.A. No.~~

~~W.P. No.~~

O.A. No. 919/90

~~Admitted and Interim directions  
issued.~~

~~Allowed.~~

~~Dismissed for default.~~

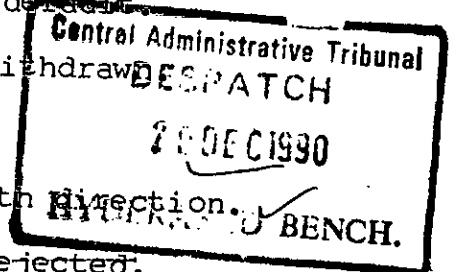
~~Dismissed as withdrawn~~

~~Dismissed.~~

~~Disposed of with direction.~~

~~M.A. Ordered/Rejected.~~

~~No order as to costs.~~ ✓



*28/12/90*