

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 17 of 1991

Date of Decision : 21-2-1991

~~XXXXXX~~

Mulagapaka Arjuna

Petitioner.

Shri P.B.Vijaya Kumar

Advocate for the  
petitioner (s)

Versus

Assistant Mechanical Engineer (D),  
~~South Eastern Railway, Waltair-4,~~  
& 3 others.

Respondent.

Shri N.R.Devaraj, SC for Railways. 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? ~
2. To be referred to the Reporter or not? ~
3. Whether their Lordships wish to see the fair copy of the Judgment? ~
4. Whether it needs to be circulated to other Benches of the Tribunal? ~
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)

(B.N.J.)

(D.S.R.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
BENCH, AT : HYDERABAD  
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O.A.No. 17 of 1991

Dt. of Decision: 21-2-1991

Between:-

Mulagapaka Arjuna .. Applicant

AND

1. Assistant Mechanical Engineer (D),  
South Eastern Railway, Waltair-4.

2. Divisional Railway Manager,  
South Eastern Railway, Waltair-4.

3. General Manager, South Eastern  
Railway, Garden Reach, Calcutta-43.

4. Sri B.C. Sarkar, Enquiry Inspector,  
South Eastern Railway, Garden  
Reach, Calcutta-43.

.. Respondents

Appearance:

For the Applicant : Shri P.B. Vijaya Kumar, Advocate.

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

CORAM:

THE HONOURABLE SHRI B.N. JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI D. SURYA RAO, MEMBER (JUDICIAL).

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(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N.)  
JAYASIMHA, VICE-CHAIRMAN.

1. The applicant herein is a Substitute Diesel Cleaner, Diesel Loco Shed, South Eastern Railway, Waltair. He has been charged with mis-conduct for having obtained employment by producing false/fake certificates of rendered previous service under Permanent Way Inspector, JYP. The said Charge Sheet dated 10-10-1988 is questioned in this application even before the inquiry <sup>has been</sup> ~~was~~ conducted

for

.../...

on the ground that the Assistant Personnel Officer (M.L. Swamy), who gave appointment to the applicant pursuant to the alleged false/fake certificate, was also proceeded against by way of charge sheet dated 28-9-1988. It is contended that the said M.L. Swamy has been issued a charge sheet by the 3rd respondent viz., the General Manager, South Eastern Railway, Calcutta, wherein it has been maintained by the said General Manager that the service certificate held by the applicant is a fake one. The applicant's contention is that the highest official of the zone, who is the revising and reviewing authority under rule 25 of the Railway Servants (Discipline and Appeal) Rules 1968 in so far as the applicant is concerned, has expressed his finding regarding the genuineness or otherwise of the certificate, and it is likely that the Inquiry Officer, who is a lower official, would be influenced or prejudiced. For this reason the applicant seeks quashing of the charge sheet.

2. We have heard Shri P.B. Vijaya Kumar, learned Counsel for the applicant, and Shri N.R. Devaraj, learned Standing Counsel for Railways, on behalf of the respondents.

3. We are unable to accept the contention that the General Manager has already given a finding in regard to the fake certificate. It is ~~very well~~ open to Shri M.L. Swamy, Assistant Personnel Officer (E)/WAT, to defend his case in regard to the allegations made in the Charge Sheet issued against him. So far as the applicant is concerned, enclosed to the charge sheet are the list of

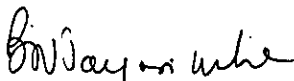
bvi


: 3 :

documents and the witnesses proposed to be examined and the charge is proposed to be sustained on the basis of these material. We do not see how a conclusion can be arrived <sup>that</sup> ~~at which~~ the General Manager (3rd respondent) has come to a conclusion that the certificates are fake which is in fact the subject matter of the inquiry.

4. In the result we see no merit in this application and we accordingly dismiss the same. No costs.

(Dictated in Open Court)

  
(B.N. JAYASIMHA)  
VICE-CHAIRMAN

  
(D. SURYA RAO)  
MEMBER (JUDICIAL)

Date: 21-2-1991

  
Deputy Registrar (Adm.)

- To
1. The Assistant Mechanical Engineer(D),  
South Eastern Railway, Waltair-4.  
nsr
  2. The Divisional Railway Manager,  
South Eastern Railway, Waltair-4,
  3. The General Manager, South Eastern Railway,  
Garden Reach, Calcutta-43.
  4. Sri B.C.Sarkar, Enquiry Inspector,  
South Eastern Railway Garden Reach,  
Calcutta - 43.
  5. One copy to Mr.P.B. Vijayakumar, Advocate,  
1-8-7/13, Sarvodaya colony, Chikkadapally, Hyderabad.
  6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench.
  7. One spare copy.

pvm

DR(A) *xy*  
12/5/91  
(3)

CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH 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)

Dated: 21 - 2 - 1991.

~~ORDER~~ / JUDGMENT:

M.A./R.A. /C.A. NO.

in

T.A.No.

W.P.No.

O.A.No. 0A 17/91

Admitted and Interim directions  
issued.

Allowed

Disposed of with direction

Dismissed ✓

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected.

No order as to costs.

Central Administrative Tribunal

DESPATCH

16 JAN 1991

HYDERABAD BENCH.