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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 18 of 1991 Date of Decision : 21-2-1991

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M.Pydiraju — 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 Rlys. — 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)

(B.N.J.) (D.S.R.)

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THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH, AT : HYDERABAD

O.A.No. 18 of 1991 Dt. of Decision: 21-2-1991

Between:-

M.Pydiraju .. Applicant

A N D

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).

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

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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 previous service rendered under Permanent Way Inspector, JYP. The said Charge Sheet dated 10-10-1988 is questioned in this application even before the inquiry has been conducted

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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 ~~xecxcwebx~~ 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

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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 at that 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(Judl.)

To

1. The Assistant Mechanical Engineer(D), South Eastern Railway, Waltair-4.
2. The Divisional Railway Manager, nsr 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.

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