

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

DA.258/91 *WMS*
MA. 353/91

Date of decision : 2-8-1993

Between

N. Subba Rao,

: Applicant

and

1. Financial Adviser & Chief
Accounts Officer
South Central Railway
Rail Nilayam
Secunderabad

2. Senior Divnl. Accounts Officer
South Central Railway
Vijayawada

3. Wagon Accounts Officer
SC Railway, Guntupally
Krishna Dist.

: Respondents

Counsel for the applicant : J. M. Naidu, Advocate

Counsel for the respondents : V. Bhimanna, SC for Railways

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per Hon. Mr. P.T. Thiruvengadam, Member (Admn.)

Heard Shri J.M. Naidu, learned counsel for the applicant and Sri V. Bhimanna, learned counsel for the respondents.

2. The applicant joined service in the year 1963. Subsequently, he ^{was} ~~got~~ posted as Clerk Grade II in the office of the Senior Accounts Officer, Wagon Workshop, Guntupally. The applicant was absent from duty from

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21.9.1981 and it has been alleged in the OA that he suddenly fell ill due to Manic Depressive Psychosis. He was taking treatment from an expert Doctor upto 9.10.1985. The applicant submits that during this period he had no consciousness. His old mother was sending representations on various dates viz. 12.10.1981, 5.10.1983, and 25.8.1984 stating that her son was admitted in hospital. Ultimately, the applicant reported for duty on 10.10.1985 on a Medical Certificate of Fitness issued by a private medical practitioner. The applicant submits that when he reported for duty on 10.10.1985, the respondents did not take him on duty, by stating that the competent authority's clearance is required for condoning his long absence. The applicant also submits that he had been representing regularly and ultimately when the administration advised the position to a Member of Parliament on 23.7.1987 that the applicant already stood removed from service vide proceedings dated 21.9.1984, this came to him as something unexpected and he was once again admitted in the hospital from 25.7.1987 to 5.3.1991.

3. The case of the respondents is that the applicant remained unauthorisedly absent from duty from 21.9.1981. A charge sheet dt. 4.12.1981 was sent to the applicant's residence which was returned by the postal authority with an endorsement, as 'left'. The disciplinary authority after conclusion of the enquiry passed an order warning the applicant for his failure to report in time about his sickness and also leaving

the headqaureters without prior permission of the competent authority. Again the applicant absented himself from duty from 25-~~8~~¹-1982 without any information or permission of the competent authority. Accordingly, chargesheet was issued for his unauthorised absence from duty vide charge-sheet on 15-7-1982. The charge sheet was sent to the applicant by registered post to his residence, which was returned by the postal authority with an endorsement "Door locked". Subsequently, several correspondence by the Inquiry Officer through registered post had been returned with the Postal authority's endorsement "Undelivered". As a result, an ex-parte inquiry as per rules was conducted and disciplinary authority passed order of removal. The said order was sent to the permanent residential address of the applicant and also to his residence in the Railway quarters which have been returned to R-3s office.

4. Respondents have denied receipt of any representations from the mother of the applicant advising that the applicant is undergoing treatment for sickness. The respondents have also stated in their counter that the applicant approached R-3 on 10-10-1985 wanting to report for duty with a statement that he was under medical treatment till date and submitted a private medical certificate. Since the applicant had been removed from service by order dated 19-9-1984, he was not taken back to duty. A copy of the memorandum dated 19-9-1984 was served on the applicant but he refused to receive the same.

5. This DA has been filed requesting for quashing of removal order dated 21-9-1984. Separately, MA 353/91 has been filed for condonation of delay.

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6. There is no reason to disbelieve the statement of the respondents that when the applicant reported for duty on 10-10-1985, he was informed that he had already been removed from service as per order dated 21-9-1984. There is no reason for the respondents to state otherwise. Even according to the applicant, he was not mentally sick during the period from 10-10-1985 to 25-7-1987.

7. This OA has been filed after a delay of more than six years after the applicant was removed from service. There is no satisfactory explanation as to the delay atleast subsequent to 10-10-1985. We do not see any reason to condone the delay. Accordingly, MA.353/91 is dismissed. As such there is no need to advert to the pleas raised in the OA, which is barred by limitation.

8. However, considering the long service put in by the applicant, and the grounds for removal, there is a case for allowing compassionate grant and compassionate relief which are permissible, as per rules. R-3 is directed to consider the case of the applicant for the sanction of these. While doing so, condonation of the period of absence from duty prior to removal shall be ordered to enable these reliefs being sanctioned.

9. In the result, MA is dismissed and the OA is disposed of, as above. No costs.

P. T. Thiruvengadam

(P.T. Thiruvengadam)
Member (Admn)

V. Neeladri Rao
Vice-Chairman

Dated : August 2, 93
Dictated in the Open Court

Deputy Registrar (J)

To

1. The Financial Adviser & Chief Accounts Officer, S.C. Rly, Railnilayam, Secunderabad.
2. The Senior Divisional Accounts Officer, S.C.Rly, Vijayawada.
3. ^{sk} The Wagan Accounts Officer, S.C.Rly, Guntupally, Krishna Dist.
4. One copy to Mr. J.M. Naidu, Advocate, CAT. Hyd.
5. One copy to Mr. V. Bhimanna, SC for Rlys.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm

4/8/93
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 2-8-1993

ORDER/JUDGMENT:

M.A./R.A./C.A.N.

in

O.A.No.

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

Central Administrative Tribunal
DESPATCH

17 AUG 1993

HYDERABAD BENCH.