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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.374/91

date of decision : 13-8-1993

Between

B.V. Nageswara Rao : Applicant

and

1. The Dy. Chief Mechanical
Engineer,
Wagon Workshop
Guntupalli

2. Works Manager
Wagon Workshop
Guntupalli

3. Assistant Works Manager
Wagon Workshop
Guntupalli

: Respondents

Counsel for the applicant : P. Krishna Reddy
Advocate

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

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

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

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri P. Krishna Reddy, learned counsel for the applicant and Sri V. Bhimanna, learned counsel for the respondents.

2. The applicant is working as Welder in the Wagon workshop at Guntupalli. Charge memo dated 19-12-1983 was issued [for] alleged unauthorised absence and for the alleged misbehaviour with the Superior employee Chargeman-B on the nights of 6-10-1983 and 9-10-1983. After inquiry order dated 17-3-87

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was passed by Assistant Works Manager (Disciplinary authority) imposing the penalty of withholding one increment for three years. The appeal thereon was dismissed by order dated 26-6-1987. The revision petition filed against the said order was dismissed on 26-6-1988 by the Deputy Chief Mechanical Engineer, Wagon Workshop, Guntupalli, ~~dated 17-3-1987 as confirmed by appellate and revisional authority was challenged in OA.748/89.~~ The same was allowed by order dated 26-7-1990 and the operative portion therein reads as follows :

"In the circumstances, the application is allowed and the impugned order dated 26-9-1988 is set aside."

3. The Disciplinary authority i.e. the Assistant Works Manager had not ordered further inquiry after the disposal of OA.748/89. But the Deputy Chief Mechanical Engineer, i.e. the Revising authority passed order dated 24-12-1990/ 8-1-1991 ordering denovo inquiry. The same was modified by order dated 19-3-1991 to the effect that the term denovo should be read as further enquiry. In both the orders dated 24-12-1990/8-1-1991 and 19-3-1991, it was mentioned that the said orders were passed in exercise of the powers under Rule 25(1)(v)(c) of Railway Servants (Disciplinary and Appeal) Rules, 1968 (for short Rules). The same was challenged in this OA. There is force in the contention for the applicant that the Revisional authority can order neither denovo inquiry nor further ~~the~~ inquiry, when the order of the Disciplinary authority which was confirmed by the appellate and revisional authority was set aside by this Tribunal. Rule 25 of the rules makes it clear that the Revisional authority can call for the records of the inquiry

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only for the purpose of revising any order made under the rules or by Rule 29. When the order of the Disciplinary authority was ultimately set aside by the Tribunal it had to be held that the order of the Disciplinary authority ceased to exist. Hence, the question of revision does not arise.

4. Charge Memo was given in 1983 i.e. a decade back. The Disciplinary authority imposed a minor penalty and the same was set aside by this Tribunal on technical grounds. As the said alleged incident was said to have taken place about a decade back and in view of the nature of the charge, we feel it not a case of ordering further inquiry at this distance of time.

5. In the above view, there is no need to consider disposal of this OA as to whether the Disciplinary authority can order further inquiry when the order of punishment was set aside by the Tribunal on grounds other than on merits and when the Tribunal had not observed that it is open to the Disciplinary authority to consider as to whether further inquiry can be ordered.

6. In the result the OA is allowed and the order dated 24-12-1990/8-1-1991 as modified by order dated 19-3-1991 is set aside. No costs.

P. T. Thiruvengadam

(P.T. Thiruvengadam)
Member (Admn.)

V. Neeladri Rao
(V. Neeladri Rao)
Vice-Chairman

Dated : August 13, 93
Dictated in the Open Court

Dy. Registrar

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