

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 444/91.

Dt.of Decision : 22-9-94.

K. Appaji Rao

.. Applicant.

Vs

1. Govt. of India
through its General Manager,
SC Rly, Sec'bad.
2. The Chief Operative Superintendent,
SC Rly, Sec'bad.
3. Sr. Divl. Personal Officer,
Meter Guage, SC Rly, Sec'bad. .. Respondents.

Counsel for the Applicant : Mr. S.Vani

Counsel for the Respondents : Mr. V.Bhimanna, Addl.CGSC.

CORAM :

THE HON'BLE SHRI A.V. HARIOASAN : MEMBER (AUDL.)

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

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15/10/94

OA 444/91.

Dt. of Order:22-9-94.

(Order passed by Hon'ble Shri A.V.Haridasan,
Member (J)).

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The prayer of the applicant is for a direction to the Respondents to treat the period from 20-4-87 to 8-9-87 i.e. from the date of his removal from service to the date of reinstatement into service as period spent on duty as consequently to give him the arrears of salary and pay other benefits.

2. The applicant was served with a charge memo on 31-8-84 and after departmental Disciplinary Enquiry he was removed from service with effect from 20-4-87. The applicant preferred an appeal to the Chief Operating Superintendent, S.C.Railway, on 21-5-87. The appeal was allowed with an observation on 8-9-87 that the charges against the applicant were not proved on the basis of the evidence on record. Consequently he was re-instated on 8-9-87. The Respondents however passed an order that the period between the date of termination and date of reinstatement would be treated as leave due to the applicant.

3. The Respondents in their reply affidavit have not disputed the facts stated above in the application but have attempted to explain that they followed the procedure

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prescribed in Rule 2044 (now revised as 1343 of the Indian Railway Establishment Manual (Volume-II)). No doubt the said Rule is relevant to decide the question of granting salary and other benefits and also the question of treating the period as spent on duty. Sub Rule-2 of the said rule makes it very clear that where the employee is fully exonerated, he should be paid the full pay and allowances as though he had not been removed from service. Further sub rule 3 lays down that in a case where under sub rule (2), the period of absence proceeding dismissal/ removal/compulsory retirement shall be treated as period spent on duty for all purposes.

4. Shri V.Bhimanna, learned standing counsel for the Respondents states that in the instant case it was held by the Chief Operative Superintendent that the charges against the applicant were not proved based on the evidence on record. Hence Shri Bhimanna, contends that the applicant has not been fully exonerated of the charges. We are not able to agree. Once the appellate authority holds that the charges have not been proved by the evidence on record, it means that the employee has been fully exonerated.

5. In view of the aforesaid, we find that this is a case where the Respondents ought to have followed clauses 2 and 3 of Rule 2044 of IREM, Vol.II. We accordingly allow the O.A. with a direction to the Respondents to treat the

period from the date of dismissal to the date of re-instatement as period spent on duty and to pay him full pay and allowances. This direction shall be complied with by the Respondents within a period of 4 months from the date of receipt of this order. No order as to costs.

Amulya
(A.V.GORI THI)
Member (A)

Amulya
(A.V.HARIDASAN)
Member (J)

Dt. 22nd September, 1994,
Dictated in Open Court.

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Amulya u-1034
DEPUTY REGISTRAR(J)

To

1. The General Manager, Govt. of India,
South Central Railway, Secunderabad.
2. The Chief Operative Superintendent,
South Central Railway, Secunderabad.
3. Senior Divisional Personnel Officer, Meter Gauge,
South Central Railway, Secunderabad.
4. One copy to Smt. S. Vani, Advocate, CA, Hyderabad.
5. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One copy to Spare.

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