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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

OA 43/91.

Dt. of Order: 17-3-94.

T.Sri Hari Rao

.....Applicant

Vs.

1. Sr.Divisional Operating Superintendent,
SC Rlys, SC Rlys, Vijayawada.
2. Divisional Safety Officer, SC Rlys,
Vijayawada.
3. Divisional Medical Officer, SC Rlys,
Tenali.
4. Asst.Divisional Railway Manager,
SC Rlys, Vijayawada.

.....Respondents

Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri Jalli Siddaiah,
SC for Rlys

CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

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

....2.

[Handwritten signature]

OA.43/91

Judgement

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

Heard Sri G.V. Subba Rao, counsel for the applicant and Sri V. Rajeswara Rao, for Sri Jalli Siddaiah, Standing counsel for the Railways.

2. The applicant was removed from service by order dated 13-11-1989 of the Senior DOS, Vijayawada, ~~whereby the applicant was removed from service~~ by way of punishment. The appellate authority by order dated 12-1-1990 modified the order by way of compulsory retirement. This OA is filed for challenging the same.

3. By the date of initiation of the disciplinary proceedings against the applicant, he was working as ASM, Tsundur. The Divisional Safety Officer, DSO, Vijayawada, issued charge memo dated 6-13/2/89. One of the contentions raised by the applicant is that as he was working in the Operations Department, the DSO, Head of the Division on the Safety organisation has no power to initiate disciplinary proceedings against him. That point is ~~also~~ ^{now longer} ~~in relation to~~ ^{The} resintegra the various Benches of this Tribunal and also AP High Court held that the DSO has no power to order punishment in regard to ASM, who is working in the Operations. It is stated that DSO has no power to punish ASM as he is not the controlling authority in regard to ASMs, and it is only the DOS who is the controlling authority for ASMs. For the same reason it has to be held that no authority in the Safety organisation can initiate disciplinary proceedings against ASM who is working in the Operations wing. Hence the contention for the applicant that DSO, Vijayawada, was not the competent authority to initiate disciplinary

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22/12/91
S. S. Rao

Copy to:-

1. Sr. Divisional Operating Superintendent, S.C.Railways, Vijayawada.
2. Divisional Safety Officer, S.C.Railways, Vijayawada.
3. Divisional Medical Officer, S.C.Railways, Tenali.
4. Asst. Divisional Railway Manager, S.C.Railways, Vijayawada.
5. One copy to Sri. G.V.Subba Rao, advocate, CAT, Hyd.
6. One copy to Sri. Jalli Siddaiah, ad SC Per Rlys, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

~~Rem/-~~

~~abbc~~

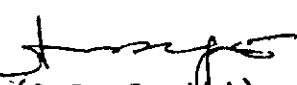
proceedings against the applicant who was working as ASM at the relevant time had to be upheld.

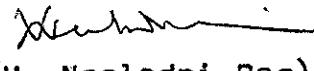
4. As the ~~interim~~ inquiry proceedings are illegal, order of punishment passed by the Senior DOS and also the modified order of the appellate authority had to be set aside.

5. Learned standing counsel for the respondents referred to AIR, 1993 SC 1321 wherein it was stated that in the absence of rules, an authority subordinate to the appointing authority/ disciplinary authority can initiate disciplinary proceedings. It cannot be stated that DSO, Vijayawada, a controlling authority of Safety organisation is subordinate to Senior DOS authority i.e. Divisional Operating Superintendent, controlling/over the staff of the Operative section. The question as to whether any authority who is subordinate to DOS can initiate proceedings against the applicant ~~had~~ not arisen for consideration in this OA, and such authority has not initiated proceedings against the applicant. Hence, on the basis of the said decision, it cannot be stated that DSO, who initiated proceedings against the applicant was competent to initiate disciplinary proceedings against the applicant who was not under his administrative control.

6. In the result, orders of DOS and the modified order of the appellate authority are set aside. But this order does not deprive the appropriate authority if so advised to initiate proceedings in regard to the allegations on the basis of which charge memo dated 6/13-2-1989 was issued by DSO, Vijayawada. The period from the date of compulsory retirement had to be treated in accordance with rules.

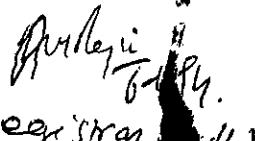
7. The OA is ordered accordingly. No costs.


(A.B. Gorthi)
Member (Admn.)


(V. Neeladri Rao)
Vice-Chairman

Dated : March 17, 1994
Dictated in the Open Court

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Dy. Registrar (Adm.)

Con