

Central Administrative Tribunal
HYDERABAD BENCH : AT HYDERABAD

O.A. No. 825/91

T.A.No.

Date of Decision : 27/12/1991

M.Krishna Murthy

Petitioner.

Shri P.Krishna Reddy

Advocate for the
petitioner (s)

Versus

General Manager, SC Railway, Secunderabad

Respondent.

and three others

Shri D.Gopal Rao

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR.R.BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE MR. C.J.ROY : MEMBER (JUDICIAL)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
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)

V
(RBS)
M(A)

W
(CJR)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
 AT HYDERABAD

DA 825/91.

Dt. of Order: 27/12/91.

M.Krishna Murthy

...Applicant

Vs.

1. General Manager,
SC Railway, Secunderabad.
2. Chief Engineer,
SC Railway, Secunderabad.
3. Sr.Divisional Engineer,
Co-ordination, SC Railway,
Vijayawada.
4. Assistant Engineer (Maintenance),
SC Railway, Bhimavaram, West Godavari District.

...Respondents.

Counsel for the Applicant : M/s P.Krishna Reddy,
P.M.Rao

Counsel for the Respondents : Shri D.Gopal Rao

CORAM:

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE SHRI C.J.ROY : MEMBER (J)

(Order of the Division Bench delivered by
Hon'ble Shri C.J.Roy, Member (J)).

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This application is filed for a relief to call for the records pertaining to order of suspension No.B/W.571/V/2/DAR/MKM/Staff dt.24-4-91 passed by the Sr.Divisional Engineer (CO-Ordination), SC Railway, Vijayawada, placing the applicant under suspension in contemplation of disciplinary proceedings against the applicant and also the consequential order No.B/W.571/V/2/DAR/MKM/Staff dt.24-4-91 issued by Divisional Engineer/II/Vijayawada, SC Railway, Vijayawada, and set aside the same.

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2. The applicant is working in the Railways for the last 33 years and ~~he~~ is due to retire on 30-9-92. Presently he is holding the post of Chief Inspector of Works at Bhimavaram. While he was working as Chief Inspector of Works at Bhimavaram some CBI Staff inspected the office of the applicant and verified the stock and found that there is no variation in stock. The applicant has to place indent for the purpose of attending to maintenance, small construction works of Railway Station Buildings, Staff Quarters and other buildings. The indent has to be approved by the Asst. Engineer who is the immediate superior and then by the Divisional Engineer (Co-ordination). It is left to the entire discretion of the Divisional Engineer (Co-ordination), SC Railway, Vijayawada to approve the entire indent and material or to reduce the same. In addition to that ^{it is the} ~~the~~ ^A Divisional Engineer authority who has to place orders and purchase the material. ^{or} As far as the applicant is concerned he has no option except ^{to} ~~to~~ to receive the materials supplied by the Divisional Engineer and utilise the same for the purpose of construction of buildings and to account for the same. On some reports about the purchase of materials the CBI has taken up the investigation and inspected the stores of the applicant as stated supra. There is no variation in the stock and the applicant submits that he has nothing to do with the cost of the material and also the quality of the material as he has no say in the purchase of the material. As stated above the CBI Officers who inspected the

stores in the year 1989 found that there is no variation in the stock of material supplied to the applicant and no further action has taken for the last two years. But surprisingly this impugned order of suspension was passed by the 3rd Respondent. The applicant also avers in his application that the higher ups were not ~~heldup~~ but he was surprisingly ^{Handed up} ~~only~~ chosen to be placed on suspension. An appeal dt.7-6-91 was preferred by the applicant to the 1st Respondent but no action has been taken by the Respondent to revoke the Impugned Suspension order and/the same time no proceedings are initiated against the applicant either under Railway Servants (Discipline & Appeal) Rules, 1968 or under any other provision of law. The applicant was kept under suspension for the last four months. The applicant further avers in his application that according to Railway Board instructions a Railway Employee can be kept under suspension when it is absolutely necessary in the opinion of the competent authority that continuance of the employee in working might endanger to the public safety, might cause serious damage or loss to the Railway Property, might prejudice the enquiry into the charge or might lead to loss of relevant records and the offence for which the employee is charged involves / ^{serious} moral turpitude. It is also averred in the application that the applicant being a very poor scheduled caste family has no backing in the department and that unnecessary hardship and mental agony is being caused besides resulting in loss of salary. Hence this petition.

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3. Counter haffidavit has been filed on behalf of the Respondents stating that the duties of the applicant includes placement of indents for requisite materials strictly following the prescribed procedure and the main guidelines of procedure are as follows :-

- 1) Stocked items should not be indented on non-stocked requisition.
- 2) Detailed justification should be furnished on the indent for indenting the items as well as for quantity indented.
- 3) Realistic approximate rate should be quoted on the non-stock requisition.
- 4) All non-stock requisitions should be routed through feeding depot.

It is also alleged that the applicant disregarding existing procedure placed non-stocked indents for stocked items without routing through the feeding depot and without obtaining any non-availability of stock certificates. The applicant made false certificates of urgency and non-availability of stock and caused procurement of materials resulting in pecuniary loss to the respondent Railways. The Respondents further alleged that the applicant indented for procurement of paint bituminus which is used as rust proof paint on steel structures. This item is maintained as stocked item at DCOS/Stores Depot, Mettuguda. As on 23-9-88 a quantity of 2470 Ltrs. was available in stock at Mettuguda Store Depot, which were procured at the rate of Rs.8-90 per litre. At the same time the applicant was also having stock of 40 Ltrs. with him. The applicant without any justification of the

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item submitted non-stock demand No.00000092 on 23-9-88 for procurement of this material. Before placing of indent the applicant has not obtained the non-availability certificate from the stores depot and he has not referred the item to the stores with regard to his requirement of the item. On this indent placed by the applicant with false certificate of urgency a quantity of 400 Ltrs. was purchased from outside Agency at higher rate and the supply was received on 17-11-88. From 17-11-88 to 6-5-89 only 10 Ltrs. were consumed as per the stock register. Without consuming the total quantity of material the applicant again on 6-5-1989 placed another non-stock Indent No.0000065 with a false certificate that

- 1) the item is non-stocked item,
- 2) stock on hand is only 40 Ltrs.,
- 3) non-available in stores,
- 4) indented quantity is required and cannot be reduced.

After that the applicant received 750 Ltrs. against this fresh indent and stock position on 29-7-89 is 1,164 ltrs., and upto 7-2-90 only 60 ltrs. were consumed as per the Stock Register and this resulted in a pecuniary loss to the Railways as the material/purchased from open market at the rate of Rs.30-00 a litre against the last purchase rate of Rs.8=90 per litre.

The Respondents further allege that the applicant placed another indent for the item of "Gun-Metal valve"-40mm", which is a stocked item at Mettuguda stores depot. The applicant placed non-stocked requisition No.00000100 of 7-9-88 for procurement of 25 Nos. available in the Stores Depot. The applicant placed the indent without referring the require-

ment to the depot and without obtaining certificate of non-availability. It is further averred in the counter that the applicant has also placed non-stock item indent for GI Elbow-~~25~~mm for Nos.100, which is also a stocked item in the depot under PL No.62301485 and there was stock of 320 Nos. available in the depot. Moreover the average consumption of this item was one number per month. And there is no necessity for the applicant to place the indent for the said item which is available in the depot. Further the applicant placed non-stock requisition on 8-4-88 for 100 Nos. of GI Elbow 20mm, which is a stocked item in the stores depot and there was stock of 1,025 Nos. at the depot. Moreover the applicant was having the stock of 56 Nos. and its requirement is only 1 No. per month. This clearly shows that there was no urgency of the item placed and the applicant falsely made an urgency certificate and placed an indent, which caused monetary loss to the Railways to the tune of Rs.3.97 lakhs. On all the occasions the applicant did not place indent as per the procedure laid down. It is submitted that in view of the placement of several non-stock indent by the applicant without adhering to the prescribed procedure there is an apprehension that some more indents may be placed likewise and further loss may be caused to the Railways hence the applicant was placed under suspension. It is stated that the department

also initiated action against all the concerned officers in the context and that the impugned order dated 24.4.91 was issued by the competent authority only.

4. The applicant also filed a rejoinder more or less asserting his original case.

5. We have heard Shri P.Krishna Reddy, learned counsel for the applicant and Shri D.Gopal Rao, learned counsel for the respondents and considered the records carefully.

6. Though the applicant was kept under suspension from 24.4.91 till date, the suspension order was not reviewed though six months time has elapsed as per the rule of review. The respondent failed to get the suspension order reviewed even though the applicant was on the verge of retirement. Further, his promotional chances are also affected in case the applicant succeeds in this application. His mental agony cannot be compensated monetarily if he is found innocent.

7. Miscellaneous Application No.1162/91 was filed by the applicant to issue interim orders. The main application is heard in the light of the observations as stated supra. Shri P.Krishna Reddy, learned counsel for the applicant, in support of his contentions relied upon the decision rendered by this Bench (SLR 1989(2) 258). If it was the apprehension of the respondents that the applicant would tamper with vital records or witnesses, he could have been well transferred without resorting to suspension which is a stigma towards the end of his service. Applying the principles of the above judgment we have no hesitation to come to the conclusion that the continued suspension of the applicant is not fair and not sustainable. Though the charge-sheet has been filed, it is not exactly necessary under the above circumstances to place

the applicant under suspension. Moreover, the competence of the authority which issued suspension order was questioned by the applicant and the respondents have not effectively countered it. In these circumstances, we quash the order of suspension dated 24.4.91. However, the respondents are at liberty to proceed with the disciplinary case according to law. Accordingly the application is allowed with no order as to costs.

R.Balasubramanian
(R.Balasubramanian)
Member(A).

Reddy
(C.J.Roy)
Member(J).

Dated 27th December, 1991.

S/1/A/2
Dy. Registrar (Judl.)

Copy to:-

1. General Manager, S.C.Railway, Secunderabad.
2. Chief Engineer, S.C.Railway, Secunderabad.
3. Sr. Divisional Engineer, Co-ordination, S.C.Railway, Vijayawada.
4. Assistant Engineer (Maintenance), S.C.Railway, Bhimavaram West Godavari District.
5. One copy to Shri. P.Krishna Reddy, 3-5-899, Himayatnagar Hyderabad-29.
6. One copy to Shri. D.Gopal Rao, SC for Railways, CAT, Hyd
7. One spare copy.

Rsm/-

27/12/91