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: IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

HYDERABAD BENCH : AT HYDERABAD

OA No.943/91.

Dt. of Order:1-9-93.

N.Nageswara Rao

....Applicant

Vs.

- 1.The Chief Workshops Engineer,
S.C.Railway, Rail Nilayam,
Sec'bad.
2. The Dy.Chief Mechanical Engineer,
Wagon Workshops, S.C.Railway,
Guntupalli, Krishna District.
3. The Production Engineer,
Wagon Workshop, S.C.Railway,
Guntupalli, Krishna District.

....Respondents

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Counsel for the Applicant : Shri P.Krishna Reddy

Counsel for the Respondents : Shri N.V.Ramana, SC for Rlys

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CORAM:

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

THE HON'BLE SHRI P.T.THIRUVENGADAM : MEMBER (A)

(Order of the Divn. Bench passed by
Hon'ble Justice Shri V.N.Rao, VC).

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When the applicant was working as Mason Gr.I, charge memo dt.9-3-89 was served upon the applicant with one charge ^{to the effect} that he remained unauthorisedly absent for the period of 195½ days in different spells from June, 1986 to December, 1988. The applicant had given explanation to the effect that after the death of his first wife in fire accident, ~~and in 1986~~ his adopted son ^{in 1986} was died by drowning in Krishna Canal and then his second wife ^{who} was attached to that adopted son, had become mentally upset and hence she was frequently leaving the house and wandering and hence it had become necessary for him to trace her and to console her and for that reason he was frequently absening for the above said period.

2. The main contention^{over} of the applicant ~~is~~ that neither the Disciplinary Authority nor the Appellate and Revision authorities had ~~taken~~ into consideration the explanation given by the applicant for his absence for the period referred to, and there is also infirmity in refering to the past absence even though the same was not referred to in the charge memo.

Pr. J.

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3. The learned counsel for the Respondents submits that the applicant had not produced the death certificate of his adopted son to support his case and hence the said version cannot be ^{believed} ~~pleaded~~. It is further urged for the respondents that they had taken past absence into consideration in order to emphasize that there are no extraneous circumstances.

4. The learned counsel for the Respondents ^{had} not drawn our attention to any material to show that the version of the applicant in regard to the death of his adopted son ^{can be challenged,} ~~is not proved~~, even when he figured as witness for himself in the enquiry. The fact that past absence ^{was} taken into consideration indicates that the same was also taken as a relevant factor. It is not open to the concern ^{ed} authorities to take into consideration the past acts without giving opportunity to the delinquent employee to explain ~~the circumstances~~ for such past acts.

5. Thus, in these circumstances it had to be held ^{there is force in} that both the contentions urged ^{for} by the applicant. The next question that arises for consideration ^{is as to whether} ~~that~~ the matter had to be remitted back to the Appellate Authority for consideration afresh in regard to the punishment ^{to be} imposed by ignoring the past absence ^{but} ~~and also~~ by taking

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To

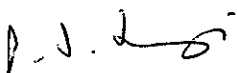
1. The Chief Workshops Engineer, S.C.Rly. Railnilayam, Secunderabad.
2. The Deputy Chief Mechanical Engineer, Wagon Workshops, S.C.Rly, Guntupalli, Krishna Dist.
3. The Production Engineer, Wagon Workshop, S.C.Rly, Guntupalli, Krishna Dist.
4. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, SC for Rlys. CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

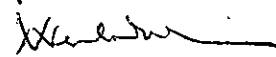
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into consideration about the circumstances under which the applicant was absent as per his explanation or to pass the appropriate order in this O.A. itself. In view of the nature of the charge and as the alleged absence had taken place about more than 5 years back we feel that instead of remitting the matter to the appellate authority it is just and proper to direct the Respondents to take the applicant into service by treating the period from the date of removal till the date of reinstatement as Mason Gr.1 in the next available vacancy as leave without pay. If such a vacancy is not going to arise by 31-10-93, the Respondents may take the applicant into service in any available vacancy in the lower grades till such time a vacancy arises in Mason Gr.I.

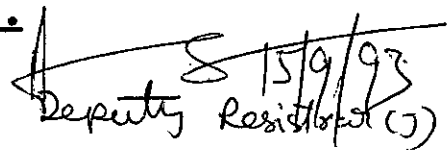
6. Original Application is ordered accordingly
No order as to costs.


(P.T. THIRUVENGADAM)
Member (A)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 1st September, 1993.
Dictated in Open Court.

avl/


Deputy Registrar (J)

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

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. ETRUVENGADAM : M(A)

Dated: 1-9 -1993

ORDER/JUDGMENT:

M.A/R.A/C.A.No.

in
O.A.No. 943/91
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.

