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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1075/91.

Dt. of Decision : 12.7.94.

Mr. S. Abdul Hussain

.. Applicant.

Vs

1. Union of India, rep. by its
General Manager, SC Rly,
Rail Nilayam, SEC'BAD (A.P)
2. The Divisional Railway Manager,
SC Rly, Guntakal,
Anantapur District.
3. The Sr. Divisional Operating
Superintendent, SC Rly, Guntakal,
Anantapur District.
4. The Sr. Divisional Personnel Officer,
SC Rly, Guntakal, Anantapur District. .. Respondents.

Counsel for the Applicant : Mr. T. Lakshminarayana

Counsel for the Respondents: Mr. K. Ramulu, Addl. CGSC.

CDRAM:

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

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

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O.A.NO.1075/91

JUDGMENT

Dt: 12.7.1994

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri T.Lakshminarayana, learned counsel for the applicant and Shri K.Ramulu, learned standing counsel for the respondents.

2. This OA was filed praying for declaration that the action of the respondents in treating the applicant as deemed to have been placed under suspension from the date of removal ie., 18.3.1987 under Rule 5(4) of the Railway Servants (Discipline & Appeal) Rules, 1968 is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution and for further declaring that the proceedings issued in the impugned order dated 29.4.1991 and 8.8.1991 to the effect of deemed suspension from 18.3.1987 is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution and for consequential direction to the respondents to reinstate the applicant into service and to pay him the emoluments by treating the entire period from 18.3.1987 as on duty.

3. The facts which are relevant and which are not in controversy are that the applicant was removed from service by the order dated 18.3.1987 after departmental inquiry. The same was set-aside by the order dated 21.6.1990 in OA 416/90 on the file of this Bench on technical grounds. After disposal of the OA 416/90, the inquiry was continued.

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4. By invoking Rule 5(4) of the RSDA Rules, the applicant was deemed to be under suspension from 18.3.1987, as per respondents.

5. It is urged for the applicant that as he was not suspended during the pendency of the inquiry before the removal on 18.3.1987, Rule 5(4) of the RSDA Rules is not attracted. Thus, the contention is that the Rule 5(4) of the RSDA Rules is applicable only in cases where delinquent employee was ^{under} suspension before the date of removal. But such a contention was negatived by the Supreme Court in 1993 SCC L&S 13 (SC) (Nelson Motis Vs. Union of India).

6. Thus, the OA fails and accordingly it is dismissed. No costs.


(A.B. GORTHI)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 12th July, 1994.
Open court dictation.


12-7-94.
Deputy Registrar(J)CC

To vsn

1. The General Manager, Union of India, S.C.Rly, Railnilayam, Sec'bad
2. The Divisional Railway Manager, S.C.Rly, Guntakal, Anantapur Dist.
3. The Sr.Divisional Operating Superintendent, S.C.Rly, Guntakal, Anantapur Dist.
4. The Sr.Divisional Personnel Officer, S.C.Rly, Guntakal, Anantapur Dist.
5. One copy to Mr.T.Lakshminarayana, Advocate, CAT.Hyd.
6. One copy to Mr.K.Ramulu, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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