

(82)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 832/92.

Dt. of Decision : 30.6.94^{ns}

Mr. G. Shanker

.. Applicant.

Vs

1. Union of India rep. by
General Manager, SC Rly,
Rail Nilayam,
Secunderabad.
2. Divisional Railway Manager (BG)
(Operating Branch), SC Rly,
Sanchalan Bhavan,
Secunderabad.
3. Sr. Divisional Operating
Superintendent (BG),
SC Rly, Sanchalan Bhavan,
Secunderabad.
4. Sr. Divisional Safety Officer
(BG), SC Rly, Sanchalan Bhavan,
Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. G. Ramachandra Rao

Counsel for the Respondents : Mr. N.R. Devarej, Sr. CGSC.

CORAM :

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

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

83

OA.832/92

JUDGEMENT

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

Heard Sri G. Ramachandra Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. Charge memo dated 18-2-1991 in regard to the Railway accident which had taken place on 4-6-1990 near Gollaguda station was issued to the applicant by R-4, the Senior Divisional Safety Officer, Broadguage, Secunderabad. After enquiry, R-3, Senior Divisional Operating Superintendent (BG) Secunderabad, passed order dated 28-1-1992 removing the applicant from service by way of punishment. The appeal ^{thereon} was dismissed ~~thereon~~. Being aggrieved, this OA was filed on 17-9-1992 wherein a number of contentions were raised.

3. The applicant filed MA.90/94 seeking permission to raise additional grounds ^{to the effect} that the disciplinary proceedings initiated by R-4 are without jurisdiction.

4. By the date the disciplinary action against the applicant was taken, he was working as ASM and he was under the administrative control of the Senior Divisional Optg. Superintendent. But when the Senior Divisional Safety Officers were initiating disciplinary actions and also passing the order of punishment against the ASM/SMs they challenged the same in the Tribunals/Courts ^{by} contending that as they were under the ^{administrative} control of Senior Divisional Operating Superintendent and not under the administrative control of Senior Divisional Safety Officer, the latter ~~had~~ ^{has} no right to either ^{to} initiate disciplinary

action against them or to pass order of punishment. The said plea was accepted by the Tribunals/High Courts. In view of the said judgement/orders of the High Court/Tribunals, the Railway by their letter No.P(R)/227/XI dated 16-6-1993 had given instructions to the concerned authority that in such cases it is only the concerned authority in the Operating Department that ^{has} ~~have~~ to initiate disciplinary action and also ^{to} pass the order of punishment and it is not the concerned authority of the Safety Department who can do the same as against the SMs/ASMs.

5. Hence, it has to be held that the charge memo dated 18-12-1991 issued by R-4 as against the applicant has to be set aside. In the circumstances it is just and proper to give an opportunity to the competent authority if so advised to initiate action in regard to the alleged acts or omissions on the part of the applicant in regard to the accident which had taken place on 4-6-1990 near Gollaguda station.

6. As this is a case of setting aside the order of punishment on technical grounds, Section V is attracted. But as the applicant had come up with the plea which we accepted in this order at a very belated stage i.e. in filing the MA.90/94 on 11-3-1994, it is not just and proper to allow subsistence allowance from the date of removal till 11-3-1994.

7. As we are holding that initiation of the disciplinary proceedings by R-4 is illegal, we feel it not proper to advert to the ^{other} ~~various~~ contentions raised in the CA

Though ~~and which~~ were also argued at length, for they are for consideration as and when they are raised. *avise*

8. In the result, the charge memo dated 18-12-1991 issued by R-4 is set aside and the inquiry proceedings in pursuance of the same and the order of punishment dated 28-1-1992, ^{passed} by R-3, and the order of appellate authority thereon are quashed as being void. This order does not preclude the competent authority in the Operating Section to initiate action in regard to commissions/omissions on the part of the applicant in regard to Railway accident which had taken place on 4-6-1990 near Collaguda.

9. The OA is ordered accordingly. No costs.

(R. Rangarajan)
Member(Admn.)

(V. Neeladri Rao)
Vice Chairman

Dated : June 30, 1994
Dictated in Open Court

Ambar 11-7-94
Dy. Registrar (Judl)

Copy to:-

1. ~~Union of India~~ General Manager, South Central Railways, Union of India, Rail Nilayam, Secunderabad.
2. Divisional Railway Manager(BG)(Operating Branch), South Central Railways, Sanchalan Bhavan, Secunderabad.
3. Sr. Divisional Operating Superintendent(BG), South Central Railways, Sanchalan Bhavan, Secunderabad.
4. Sr. Divisional Safety Officer(BG), South Central Railways, Sanchalan Bhavan, Secunderabad.
5. One copy to Mr. G. Ramachandra Rao, Counsel for the Applicant 3-4-498, Barkatpura, Hyderabad-500 027.
6. One copy to Mr. N. R. Devaraj, Sr. CGSC, CAT, Hyderabad.
7. One copy to Library
8. One spare.

kku.

Ambar 11-7-94

07-NO-832/92

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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. G. RTHI : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (CUDL)

AND

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

80.6-
Dated: - 1994.

~~ORDER/JUDGMENT:~~

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

in

O.A.No.

C.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.

pvm

