

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

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O.A.No.911/92

Dt.of Judgement:10-7-1995

Between

Basheer Moinuddin

.. Applicant

and

Divisional Railway Manager  
South Central Railway  
Hyderabad Division(MG)  
Secunderabad

.. Respondent

Counsel for the Applicant :: Smt S.Thiripurasundari

Counsel for the Respondents :: Sri J.R.Gopala Rao, SC for Rlys

CORAM:

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

HON'BLE SHRI A.B. GORTHI, MEMBER (ADMN)

contd...

JUDGEMENT

(As per Hon'ble Shri Justice V.Neeladri Rao,Vice-Chairman)

Heard learned counsel for both the parties.

2. This OA was filed praying for a declaration that the punishment awarded to the applicant herein, by way of postponement of his increments is illegal with a consequential direction to refund the amount deducted with interest and to consider him for promotions as if there was no punishment.

3. A charge memo dated 25.1.1984 with the following charge, was served on the applicant.

"While functioning as gangman in that Sri Basheer Moinuddin has misbehaved with Sri D.Neemkar, PWI/MED I/C during his trolley inspection on 16.12.1983 at Km 575/6-7½ and also obstructed the trolleyman Sri Yellaiah Nagaiah in his working."

While it is stated for the ~~respondent~~ applicant that, after the inquiry, the applicant was not ~~informed~~ informed about the result of the said inquiry, it is submitted for the respondents, that the Disciplinary Authority imposed the punishment of with-holding of annual increments for three years on the applicant and a copy of the said order was served on the applicant on 7.9.1985. It is true the xerox copy of the order which is enclosed to the reply statement, does not bear the date of that order. On that basis, the said order cannot be held as null and void. The period for preferring an appeal is 45 days from the date of receipt of that order. Hence, the contention that the said order had to be declared as void per se on the ground that it does not bear the date of that order had to be rejected.

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4. In para 4(c) of the OA, it is alleged as under:

"The applicant is unable to recall receiving any communication after 8.10.1984 in the matter and he was under the impression that the matter was not pursued by the disciplinary authority."

But, at the bottom of the punishment order, the left thumb impression of the applicant has been taken and a separate acknowledgement with the left thumb impression of the applicant has also been taken to the effect that the order of punishment has been served on the applicant, and the xerox copy of the same is also enclosed along with the reply statement. No rejoinder is filed for the applicant to state that the left thumb impressions in the relevant enclosures referred to above, which were filed along with the reply statement, are not that of the applicant. Hence, the case of the respondents that the order of punishment was served on the applicant can be believed.

5. It was held by the Apex Court in Viswanathan's case (1992 SCC(L&S)155) that the principle laid down in Ramzankhan's case is applicable only in regard to the orders subsequent to the date of Judgement in Ramzankhan's case. But, as the disciplinary authority in this case has passed the order before the date of the Judgement in Ramzankhan's case, the contention that the said order is vitiated as the copy of the Enquiry report was not furnished to the applicant before the order of punishment was passed, is not sustainable.

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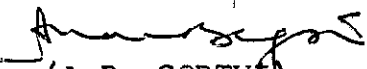
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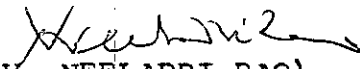
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6. The contention for the applicant that the order of the appellate authority has to be held as void as no personal hearing was given to the applicant does not merit consideration in the view of the Judgement in Apex Court in 1994 SCC (L&S) 1017 (State Bank of Patiala Vs Mahendra Kumar Singhal).

7. The plea for the applicant that the finding that the charges are proved, is not based upon any evidence is not substantiated; and hence, that plea also has to be rejected.

8. In the result, the CA is dismissed. No order as to costs. //

  
(A.B. GORTH)  
Member(Admn)

  
(V. NEELADRI RAO)  
Vice-Chairman

Dated:10th July,1995

Dictated in the Open Court Deputy Registrar(J)CC

To

1. The Divisional Railway Manager, S.C.Rly  
Hyderabad Division(MG) Secunderabad.
2. One copy to Smt.S.Thripurasundari, Advocate, CAT.Hyd.
3. One copy to Mr.J.R.Gopal Rao, SC for Rlys, CAT.Hyd.
4. One copy to Library, CAT.Hyd.
5. One spare copy.

pvm