

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.989/92.

Date of Judgement / 18-1-93

B.Venkataswamy

.. Applicant

Vs.

1. The Railway Board,
Rep. by the
Jt. Secretary,
Establishment,
Rail Bhavan,
New Delhi-110001.
2. The General Manager,
S.C.Rly.,
Secunderabad.

.. Respondents

Counsel for the Applicant : Shri P.V.Krishnaiah for
Shri G.Vedantha Rao

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys.

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri T.Chandrasekhara Reddy : Member(J)

[Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)]

This application is filed by Shri B.Venkataswamy against the Railway Board, Rep. by the Jt. Secretary, Establishment, Rail Bhavan, New Delhi-110001 & another under section 19 of the Administrative Tribunals Act, 1985 with a prayer to quash the proceedings of the notice No.E(O)I-91-AE3/14 dt. 21.10.92 of the Railway Board.

2. At the relevant point of time the applicant was working as Asst. Accounts Officer in the Office of the Financial Adviser & Chief Accounts Officer, S.C.Rly. Disciplinary proceedings were initiated against him vide charge memo dt. 1.8.88. An enquiry was held. The Enquiry Officer submitted a report holding that the charges framed were not proved. After this report, a notice was given by the General Manager on 17.8.90 to the applicant to which a reply was given on 3.9.90. Despite the Enquiry Officer's report

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Stating that the charges framed were not proved, the General Manager imposed the punishment for reduction of pay by two stages until retirement vide his order dt. 23.4.91. The applicant questioned this order of punishment in O.A.No.675/91 which was disposed of on 31.1.92. The punishment order was quashed by the Bench. Liberty was, however, given to the respondents to pursue the matter from the enquiry report stage by issuing a fresh show cause notice to the applicant. The General Manager did not proceed further with the disciplinary proceedings, ^{Instead} the Railway Board issued the impugned memo on 21.10.92. It is this show cause notice that the applicant questions and prays that this show cause notice be quashed.

3. The respondents have filed a counter opposing the application. It is their case that in pursuance of the liberty given by this Bench in O.A.No.675/91 they have issued a fresh show cause notice which is claimed to be quite in order. It is also stated that the regular incumbent in the post of General Manager retired on 31.5.91. The successor to him who took over on 1.6.92 was not a regular General Manager but was only posted to look after the current duties of the General Manager and he could not exercise the statutory powers of the General Manager. There was also an element of urgency in this case since the applicant was due to retire on 31.12.92. Hence the Bench decided to refer the matter to the Railway Board which was a higher authority. The Railway Board which has the powers to impose all penalties ^{decided to act} as the disciplinary authority and issued the impugned memo of 21.10.92.

4. We have examined the case and heard the rival sides. The main points on which the learned counsel for the applicant laid stress were:

(a) Only the General Manager, S.C.Rly., who initiated the case can pursue the case and the Railway Board which should be the appellate authority cannot assume the role

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of the disciplinary authority.

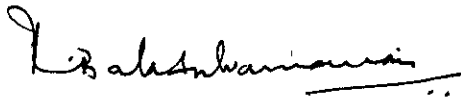
(b) Since no action was taken within six months of the judgement dt. 31.1.92, the disciplinary proceedings should be deemed to have been dropped.

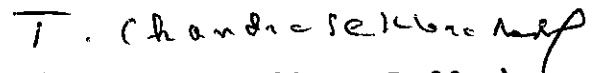
(c) The earlier decision dt. 31.1.92 in O.A.No.675/91 concerns only the respondents therein and the liberty given to the respondents therein cannot be acted upon by the Railway Board which was not a party to that O.A.

5. The contention of the learned counsel for the applicant that only the competent disciplinary authority should pursue the case is not acceptable for this would mean that none but the competent authority can act as the disciplinary authority to the exclusion even of higher authorities. While it is established law that none lower than the competent authority could inflict the relevant statutory punishments, there is no bar to any higher authority which can inflict the ^{in its powers.} punishments. We have seen the schedule of disciplinary powers. In the case of the applicant, the Railway Board can impose any penalty. Thus, regardless of whether or not the regular General Manager was there, the Railway Board has the powers to inflict all penalties and its assuming the role of the disciplinary authority cannot be questioned.

6. As regards the other point that the direction of this Bench in O.A.No.675/91 did not concern the Railway Board, Shri N.R.Devaraj, learned counsel for the respondents drew our attention to the fact that it was the General Manager, S.C.Rly., that acted on the directions of this Bench and sought the intervention of the Railway Board, which took the subject into its hands. ^{Also,} The learned counsel for the applicant's contention, that ~~since~~ the disciplinary proceedings should be deemed to have been dropped because of the delay, does not appeal to us since it had been held by the Hon.S. that mere delay, that too a small one, ^{in this case,} does not vitiate the ^{(1982) 2 SCC 527.} disciplinary case. The learned counsel for the applicant

has also cited two cases AIR 1971 SC 1106 and AIR 1978 SC 851. The facts of the case therein do not apply to this case. However much the learned counsel for the applicant tried to project the action of the Railway Board as illegal, we do not perceive any illegality in the action of the respondents herein and dismiss the O.A. with no order as to costs.


(R.Balasubramanian)
Member(A).


(T.Chandrasekhara Reddy)
Member(J).

Dated: 15th January, 1993.


Deputy Registrar(J)

To

1. The Joint Secretary, Railway Board,
Establishment, Railbhavan, New Delhi-1.
2. The General Manager, S.C.Rly, Secunderabad.
3. One copy to Mr.G.Vedanta Rao, Advocate
Advocates Association, A.P. Administrative Tribunal, Hyd.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
5. One copy to Deputy Registrar(J)CAT.Hyd.
6. Copy to All Reporters as per standard list of CAT.Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

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

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY: M(J)

AND

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

Dated: 15-1-1993

ORDER/JUDGMENT:

For Typing

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

in

O.A. No.

989/92

T.A. No.

(W.P. No.)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

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Central Administrative Tribunal
DESPATCH
8 FEB 1993
HYDERABAD BENCH