

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA No.150/92.

Dt. of Order: 27-2-92.

R.Ramesh Kumar

....Applicant

Vs.

1. The Chief Workshop Manager,
Loco & Carriage Workshop,
SC Railway, Lallaguda, Secunderabad-17.

Railway Workshop, Secunderabad: ...Respondents

Counsel for the Applicant : M/s P.Devakar &
Y.Vijay Kumar

Counsel for the Respondents : Sri V.Bhimanna
CDRAM:

THE HON'BLE SRI R.BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Division Bench dictated by
Hon'ble Sri T.C.Reddy, Member (J)).

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This application is filed under section 19 of the
A.T.Act, 1985 by the applicant herein to declare the order
of suspension passed by the Respondents on 12-12-91 as null
and void and to direct the Respondents to allow the appli-
cant to join to duty.

2. The facts giving rise to this application are as
follows :-

The applicant at the relevant time was working as
Kalasi in the Mill Wright Shop of the Respondents. He was
arrested by the Railway Protection Force ~~for~~ ^{of} an alleged offence
under section 3(a) of the Railway Properties Unlawfull Pose-
ssion Act on 4-10-91 and was produced before the Magistrate
on 5-10-91. The applicant seems to have obtained bail
orders in his favour from the Magistrar, who had remanded

him to the Judicial custody. Ultimately, the applicant had been released from custody on 7.10.92.

3. The applicant had been kept under suspension by an order dated 11.10.91 as he had been under detention for more than 48 hours. The said order of the suspension dated 11.10.91 is questioned in this application. Straightaway, we may refer to Rule 5(2)(a) of the Railway Servants Discipline & Appeal Rules 1968, which reads as follows:

"A Railway servant shall be deemed to have been placed under suspension by an order of the competent authority:
(a) with effect from the date of his detention if he is detained in custody, whether on a criminal charge or otherwise, for a period of exceeding forty-eight hours."

Admittedly, in this case, right from the time of arrest till the applicant had been released from custody, ^{he} had been under detention for more than 48 hrs.. Hence, we do not see any illegality on the part of the respondents in keeping the applicant under suspension under Rule 5(2)(a) of Railway Servants Discipline & Appeal Rules, 1968.

4. Sri Vijay Kumar, learned Counsel for the applicant vehemently contends as the applicant had obtained the said bail orders in his favour on 5.10.91 i.e. before 48 hours after his arrest that subsequent detention of the applicant in the jail is not legal and in view of this position that this Tribunal had to interfere and hold that the applicant was under unlawful detention and so the suspension order was liable to be quashed. We are not able to agree

T. R. M.

with the contention of the learned counsel for the appli-

cant in view of the ~~Rule 5(2)~~ (a) of Railway Servants
Discipline & Appeal

which specifically states,
if
~~that~~ the detention is for more than 48 hours, the government

shall be
servant deemed to have been kept under suspension by an
order of the competent authority. So we see no merit in

this O.A. Hence the Original Application is summarily re-

jected under the provisions of ~~19(3)~~ of ~~P.A.~~ Act, 1985.

R. Balasubramanian
(R. BALASUBRAMANIAN)
Member (A)

T. Chandrasekhar Reddy
(T. CHANDRASEKHAR REDDY)
Member (J)

Dated: 27th February, 1992.
Dictated in Open Court.

86/37
Deputy Registrar (J)

avl/

To

1. The Chief Workshop Manager,
Loco & Carriage Workshop,
S.C.Rly, Lallaguda, Secunderabad
2. The General Manager, S.C.Rly, Railnilayam, Secunderabad.
3. One copy to Mr. P. Devakar, Advocate
24/27, Shivapuri, Malkajgiri, Hyderabad.
4. One copy to Mr. v. Bhimanna, SC for Rlys, CAT. Hyd.
5. One spare copy.

pvm.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

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

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY;
M(JUDL)

AND

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

DATED: 27-2-1992

ORDER/JUDGMENT:

R.A/C.A/ M.A.Nc.

in

O.A.Nc.

150/92

T.A.No.

(W.P.No.)

Admitted and interim directions
issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected ✓

No order as to costs.

