

(178)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A 942/93.

Dt. of Decision : 24.1.95.

P. Venkat Reddy

.. Applicant.

Vs

1. Additional Divl. Railway Manager,
SERly, Waltair, Visakhapatnam.
 2. Sr. Divl. Mechanical Engineer(Diesel),
SE Rly, Waltair, Visakhapatnam.
- .. Respondents.

Counsel for the Applicant : Mr. P. Krishna Reddy
Counsel for the respondents : Mr. Venkatesh Reddy

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER(JUDL.)

O.A. 942/93.

Dt. of Decision

ORDER

I As per Hon'ble Shri A.B. Gorthi, Member (Admn.)

The applicant was served with a charge memo dated 28.8.91 which was followed by departmental disciplinary enquiry. On the conclusion of the enquiry, the disciplinary authority awarded the penalty of dismissal. But the same was reduced to compulsory retirement by the appellate authority in his order dated 2/14-6-93, while disposing of the applicant's appeal. Aggrieved by the penalty of compulsory retirement, he filed this OA praying that the same may be set aside and that he be reinstated in service with all consequential benefits.

2. The applicant was working as Office Superintendent Grade-II in the office of the Senior Divisional Mechanical Engineer (Diesel). By order dated 7.3.90 he was transferred to work in the Special Tool Room under the L.F.(D). The applicant represented to Additional Divisional Railway Manager, Waltair, against his transfer to special tool room on the ground, that he did not have the requisite technical knowledge to handle the tools. His request was rejected and it led the applicant to file OA.No. 179/91. When the said OA was pending before the Tribunal, the applicant was transferred to Oil Installation on 13.3.91. He reported to the Installation on 23.3.91 and represented to the authorities concerned that he was prepared to take over charge except that he was not in a position to take the dip reading of the fuel tanks on account of his ill-health ^{and} blood pressure. The applicant continued to attend office but was not assigned any duties on account of his inability to take the dip reading of the fuel tanks and ^{refusal to take a} ~~took~~ charge of his post.

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3. The applicant was directed to perform election duties by an order dated 20.4.91 in pursuance of which, he attended two election ^{training} classes on 29.4.91 and 8.5.91. His name was later on removed from the election duty on the intervention of the CPO of the Division.

4. In the charge memo served upon the applicant the first article pertained to his non performance of duty in the special tool room and the fuel installation. The second article pertained to his proceeding to attend the election training classes on 29.4.91 and 8.5.91.

5. The respondents in their reply affidavit have stated that the applicant had no reasonable justification in refusing to perform the duties assigned to him both in the special tool room and in the fuel installation. His non performance of duty on the first article was due to either the requisite technical knowledge or the state of health is nothing but ^a ~~designed~~ to avoid the performance of duties. The respondents further contend that the applicant on his own managed to get his name included for election duty, without the knowledge of his superior officer. When this came to the notice of the respondents, ² ~~official~~ steps were taken to have his name deleted from the ^{list of} ~~officials~~ required for election duty.

6. Heard learned counsel for both the parties.
 has stated that the applicant did not have the requisite technical knowledge, so as to ^{him} ~~enable~~ to identify the various tools or know the ^{purpose} ~~performance~~ for which they would be required. He accordingly pleaded with his superiors not to put him in charge of the special tool room. Similarly for the purpose of taking dip reading of the fuel tanks, he was required to climb up the ladder of the fuel tanks to a considerable

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might and as the applicant was a patient of blood pressure, he expressed his grievance to his superior authorities. The thrust of the arguments of Shri P. Krishna Reddy is that the applicant merely expressed his difficulty in under-taking the jobs assigned to him and that ~~it~~^{he} could not ~~said~~^{be} to be ~~mis-conduct~~. As regards the applicant's attending the election training classes it was merely in obedience of the orders of the respondents in that regard.

7. Having heard learned counsel for the applicant and having perused the records of the disciplinary proceedings, ~~we~~^{we} find that the applicant consistently took an attitude of non-co-operation with the authorities concerned and kept on refusing to perform the duties assigned to him. Obviously, his plea that he did not have the required technical knowledge to take over the special tool room was not accepted by the ~~superior officers~~. The applicant in his state of health could also perform the duty related to taking ~~short~~^{this} dip reading of the fuel ~~installation~~^{tanks}. As regards ~~he~~^{this} attending the election training classes, it is apparent that the applicant, without the knowledge of his superior officers, managed to get his name included for attending the training.

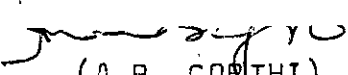
8. The disciplinary authority ~~have~~^{having} examined the evidence ~~adduced~~^{adduced} during the departmental enquiry, ~~and~~^{and} ~~came~~^{came} to the conclusion that the applicant was guilty of the articles of charge. We find no justification to differ with the said findings of the disciplinary authority.

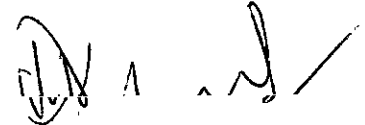
9. As regards the penalty imposed on the applicant the appellate authority himself observed that it was ~~likely~~^{likely} ~~of being~~ harsh and accordingly mitigated the same to one of compulsory retirement.

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10. Shri P.Krishna Reddy contended that the order of the appellate authority was *very cryptic*. We however find that the appellate authority in his order has stated that on interviewing the applicant on 24.5.93, he observed that the applicant had repeatedly avoided doing his work on different counts. The very fact that the appellate authority found the penalty imposed by the disciplinary authority as excessive would ~~itself~~^{clearly} indicate that the appellate authority applied his mind to the merits of the case including the quantum of penalty.

11. In the afore stated circumstances, we are unable to find any such irregularity or illegality in the disciplinary proceedings or would warrant our interference thereon. The OA is without merit and is therefore dismissed. There shall be no order as to costs.


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


(A.V. HARIDASAN)
MEMBER (JUDL.)

(Dictated in Open Court)


DEPUTY REGISTRAR(J)

To

1. The Addl.Divisional Railway Manager,
South Eastern Railway, Waltair, Visakhapatnam.
2. The Senior Mechanical Engineer(Diesel),
South Eastern Railway, Waltair, Visakhapatnam.
3. One copy to Mr.P.Krishna Reddy, Advocate, CAT, Hyderabad.
4. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One copy to spare.

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TYPED BY
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COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER ()

AND

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

DATED : 24-1-95

ORDER/JUDGEMENT.

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

in

O.A.No. 942/93

Admitted and Interim directions
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Rejected/Ordered

No order as to costs.

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