

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

MONDAY THE SIXTEENTH DAY OF FEBRUARY
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

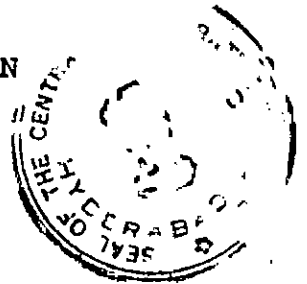
THE HON'BLE MR. B.N.JAYASIMHA : VICE CHAIRMAN

AND

THE HON'BLE MR. D.SURYA RAO : MEMBER.

TRANSFER APPLICATION No.218/86

(W.P.No.4172/80)



Between:

Ch. Samson.

.. Applicant/Petitioner.

And

1. Divisional Superintendent,
South Central Railway, Vijayawada.
2. The Medical Superintendent,
South Central Railway, Hospital, Vijayawada.
3. Divisional Medical Officer,
South Central Railway, Vijayawada.

.. Respondents/Respondents.

Application under Section 29(1) of the Administrative Tribunals Act, 1985 transferred from the High Court of Andhra Pradesh praying that in the circumstances stated therein the Tribunal will be pleased to issue an order or direction directing the respondents herein to reinstate the petitioner after declaring the orders of the 3rd respondent vide No. B/P5/VIII/77-2 dt.30-7-79 as confirmed by the 2nd and 1st respondents in orders vide No. B/P-91/VIII/79/1 dt.14-11-79 and 13/P-91/VIII/79-1 dt.5-12-79 as illegal null and void.

For the Applicant: Mr.V.Rama Rao, Advocate.

For the Respondents: Mr.F.Venkatrama Reddy, SC for Rlys.

The Tribunal delivered the following Judgment:

Officer to enquire into the charge. After receipt of ^{officer's} the enquiry's report, the third respondent by an order dated 30-3-79 vide No.B/PS/VIII/77½2, removed the applicant from service. The appeal of the applicant was rejected on 14-11-1979 by the Second respondent namely Medical Superintendent, South Central Railway Hospital, Vijayawada. The Review Application made to the first Respondent viz., Divisional Superintendent, South Central Railway, Vijayawada was also rejected. The applicant thereupon filed Writ Petition No.4172/1980 on the file of the High Court of Andhra Pradesh. The Writ Petition has been transferred to this Tribunal under section 29(1) of the Administrative Tribunals Act, 1985.

On behalf of the Respondents, a Counter affidavit has been filed denying the various contentions raised by the applicant. The only substantial point that has been made out before us is that Appellate authority and the Reviewing Authority have not passed any speaking orders. The order dt. 14-11-79 of the Appellate Authority reads as follows:

TRANSFERRED APPLICATION 218 of 1986
(WRIT PETITION 4172/1980)

...*...

(JUDGMENT of the Bench delivered by the Hon'ble
Member Sri D.Surya Rao)



The applicant herein was working as a Medical Attendant in the South Central Railway, Vijayawada Division. While working at Donakonda Station in May 1973, he was asked to give his willingness whether he could be transferred to Tuni. He expressed his unwillingness. Despite the same he was transferred to Tuni by an order dated 15-2-1977. He preferred an appeal to the Senior Divisional Personnel Officer, South Central Railway, Vijayawada, expressing his inability to proceed to Tuni. Thereafter, he went on leave from 3-3-1977 to 7-3-1977. This leave was extended by 60 days which was duly sanctioned. Thereafter, he sought extension of leave for another 60 days, but the same was negatived. While on leave his name was deleted from the Muster Roll with effect from 7-3-1977. Subsequently, the third respondent viz., Divisional Medical Officer, South Central Railway, Vijayawada, issued a charge sheet against the applicant for having absented himself from duty from 6-5-77 without proper sanction of leave. He also appointed an Enquiry

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have taken upon ourselves the task of reviewing the quantum of punishment. However, the instant case is one where an enquiry was commenced and completed by 1979. The appeal petition and review petitions were also disposed of in the same year. Immediately thereafter, the applicant filed the Writ petition in the year 1980 which has been pending for 7 years. In view of the long delay, we are of the opinion that in the interest of justice, it would be fair for this Tribunal to determine as to the adequacy or otherwise of the quantum of punishment rather than to remand the matter to the revisional authority. As already indicated above, the charge against the applicant is that he did not carry out orders of transfer to Tuni and that he was on unauthorised absence after the leave was refused. He had pleaded that family circumstances had prevented him from proceeding to Tuni. His contention that he had been performing his duties to the satisfaction of the superiors without complaint prior to the charge is not denied.

In the circumstances, we are of the opinion that the punishment of removal from service should be reduced. *for a period of one year*
We feel that reduction in salary by one stage without

"Medical Superintendent, the appellate authority, has carefully gone through your appeal against the above penalty and decided to uphold the same."

The order of the first respondent in review dt. 5-12-1979

reads as follows:

"I do not find any reason to consider the case further. M.S. orders stand good."

Even though Learned Counsel for the applicant has not made out any ground for interference with the order of the Disciplinary authority finding the applicant guilty, we find that no consideration has been paid in regard to the quantum of punishment, while directing removal of the applicant from service. The charge against the applicant is absence from duty. His record of service is otherwise reported to be satisfactory. Under Rule 24(3) of the Railway Servants (Discipline & Appeal) Rules, it is incumbent on the Appellate Authority and consequently on the Reviewing authority to determine as to the adequacy of the punishment imposed in regard to an appeal presented by the Class IV employee. We find from the review petition that the applicant did question the penalty imposed but this aspect of the matter was not dealt with by the revisional authority. In normal circumstances, we would not

postponement of increments would be an adequate punishment and direct that the same be imposed on the applicant. The period of absence of the applicant from the date of his not attending duty till the date of his reinstatement will not count as duty for the purpose of drawal of salary and leave.

The application is partly allowed as directed above. There will be no order as to costs.

Sd/- M.A.Hameed,
Deputy Registrar.

/True copy/

Am/GE
for Deputy Registrar.

To

1. The Divisional Superintendent, South Central Railway, Vijayawada.
2. The Medical Superintendent, South Central Railway, Hospital, Vijaywada.
3. Divisional Medical Officer, South Central Railway, Vijayawada.
4. One C.C. to Mr.V.Rama Rao, Advocate, H.No. B-2, Old M.L.A. Quarters, Hyderabad - 29.
5. One C.C. to Mr.F.Venkatrama Reddy, Sc for Railways.
6. ~~One spare copy.~~

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