

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.969 of 1993

DATE OF JUDGMENT: 1st September, 1993

BETWEEN:

Mr. B.Bhaskara Rao ..

Applicant

AND

The Divisional Railway Manager,
South Central Railway,
Vijayawada. ..

Respondent

HEARD:

COUNSEL FOR THE APPLICANT: Mr. N.Rama Mohan Rao, Advocate

COUNSEL FOR THE RESPONDENT: Mr. K.Ramulu, SC for Railways

CORAM:

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

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (ADMN.)

JUDGMENT

(As per Hon'ble Shri P.T.Thiruvengadam, Member (Admn.))

This OA has been filed praying to quash the proceedings in No.B/P.90/III/92/9, dated 30.6.1993 and consequently direct the respondent to act upon the proceedings No.B/P.90/III/92/9/R, dated 10.5.1993 and to declare that the applicant is entitled to be treated as on duty as I Fireman with effect from 19.5.93 with all consequential benefits such as payment of salary and allowances attached to that post, continuity of service, seniority etc.

2. The facts of the case which are not under dispute are as under:-

contd....

The applicant had stayed away from duty and he produced a fit certificate and medical certificate to cover his period of absence. Disciplinary proceedings for imposition of a major penalty had been initiated against the applicant for alleged tampering with the Fit Certificate. The proceedings culminated in imposition of the penalty of removal from service. The applicant preferred an appeal which was turned down. A revision petition was filed before the Additional General Manager, South Central Railway. The Revisionary Authority agreed with the findings of the competent disciplinary authority as well as with the order passed by the appellate authority, by the impugned order dt. 23.4.1993.

3. But the order that was communicated to the applicant contained the following portion:-

"However, considering his young age and purely as an act of clemency, Shri Bhaskara Rao be appointed as I-Fireman on pay Rs. 950/- in Grade Rs. 950-1500(RSRP) as a fresh entrant for all purposes."

The said portion was also contained in the endorsement to the Divisional Authority. In pursuance of this endorsement, the Divisional authority issued the letter dt. 10.5.1993 directing the applicant to report to the APO(Mechanical), Vijayawada for further posting orders. Accordingly, the applicant reported to the Divisional authority on 31.5.1993. He was informed that the reply from the Divisional authority is still awaited. Subsequently on 30.6.1993, the applicant was advised by the Divisional authority as under:

"Order No.P.94/BZA/BBR/1554 dt. 23.4.93 on which action was taken by this office vide reference No.(3) cited above, has been found to be not the

original order and therefore not a correct one, as the concluding portion of the aforesaid order is non-existent in the original order passed by the Revising Authority, whereof the said order as notified is treated as non-existent.

Accordingly, order No.P.94/BZA/BBR/1554 dt. 23.4.93 communicated under this office letter No.B/P.90/III/92/9/R dt. 10.5.93 is treated as cancelled.

The photostat copy of the original order No.P.94/BZA/BBR/1554 dt. 23.4.93 of AGM/SC confirming the penalty imposed vide Memorandum No.B/P.227/III/90/9 dt. 26.5.92 is sent herewith.

Please acknowledge receipt."

(Reference No.(3) supra is to the division's letter dt.10.5.93)

4. In view of the pleadings, we directed the respondents to produce the original records in the revision petition including the order dt. 23.4.1993 of the Additional General Manager. The records were produced and we perused the same. We are satisfied that the original order passed by the Addl. General Manager (Revisional Authority) on the noting sheets on the file did not contain the portion which is in controversy. As per practice, the orders on the noting sheets were put up as an office order addressed to the party with endorsements to others concerned, in the proper format once again for the signature of the Revisionary authority. Even in the office copy of this order dt. 23.4.1993, the controversial portion did not figure. Thus, it is clear that the said portion was inserted in the copies communicated to the Divisional office and also to the applicant to be forwarded through the divisional office. Thus, when there is no order for reinstatement in the revision, the applicant is not entitled to the reliefs claimed.

5. But, there is justification in the submission for the applicant that he should be forwarded with the copy of the order in accordance with the order dt. 23.4.93 passed by the Additional General Manager so as to enable the applicant to challenge the same if he is so advised.

6. In the result, the OA is dismissed. But the respondents have to communicate the order dt. 23.4.1993 passed by the Additional General Manager and it should be in conformity with the order dt. 23.4.1993 of the Additional General Manager which is on file. No costs.

P. T. Thiruvengadam

(P.T.Thiruvengadam)
Member (Admn.)

Neeladri

(V.Neeladri Rao)
Vice-Chairman

Dated 1st Sep., 1993.
(Open court dictation)

8/6/93
Deputy Registrar (J)

To

1. The Divisional Railway Manager, S.C.Rly, vijayawada.
2. One copy to Mr.N.Ramamohan Rao, Advocate, CAT.Hyd.
3. One copy to Mr.K.Ramulu, SC for Rlys. CAT.Hyd.
4. One copy to Library, CAT.Hyd.
5. One spare copy.

pvm

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16/9/93*

TYPED BY

COMPARE

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

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

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M (A)

Dated: 1 - 9 - 1993

ORDER/JUDGMENT:

M.A/R.A/C.A.N.

O.A. No. 969 in 93
T.A. No. (W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

NO order as to costs.



⑥

16.93