

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA:No.1290/93:

Dt. of Decision : 03-12-96.

S.Visweswara Rao

.. Applicant.

Vs

1. The Chief Workshop Engineer,
SC Rly, Rail Nilayam,
Secunderabad,
2. The Dy.Chief Mech.Engineer,
Wagon Workshop,
SC Rly,Guntupalli,
Krishna District.
3. The Works Manager,
Wagon Workshop,
SC Rly, Guntupalli,
Krishna District,

.. Respondents.

Counsel for the Applicant : Mr.P.Krishna Reddy

Counsel for the Respondents : Mr.N.R.Devaraj,Sr.CGSC.

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

R

ORAL ORDER (PER HON. SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

Heard Miss Sarada for Mr.P.Krishna Reddy, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

2. In this original application, the applicant has challenged the proceedings No.GR/P.227/26838/WG/90/7 dated 10-06-92 and 23-07-92 and P.90/GTPL/SVR/1605 dated 09-02-93 and for a consequential relief or reinstatement to service.

3. During January 1990 the applicant was working as a Skilled Grade Welder Gr-I (Token No.26838). On 06-01-90 the applicant assaulted the chargeman by throwing the shackle pin and caused injuries. With respect to the said incident, a charge memo was issued to the applicant under Rule 9 of the Railway Servant (D&A) Rules, 1968 and a detailed enquiry was conducted. The enquiry officer submitted his report holding the applicant guilty of the said misconduct. The respondent No.3 accepted the findings of the enquiry officer and passed the order imposing the penalty of removal of the applicant from service. Against the said order the applicant preferred an appeal to the respondent No.2. The appeal was dismissed. Against the order of dismissal, the applicant preferred a revision petition to R-1. The R-1 dismissed the revision petition by his order dated 10-06-92.

4. These orders have been challenged by the applicant in this original application.

5. It is stated that the incident occurred on 6-1-90 was purely an accidental one and it was not his intention to injure the chargeman. The respondents in their counter affidavit have submitted that with respect to the same incident a charge sheet was submitted before the competent Court which held him guilty, convicted and released him on probation.

6. The applicant has challenged the impugned orders on the grounds that the order of removal is totally erroneous, that the third respondent was not competent to pass the order in

accordance with the rule 10 of the Rules, that the disciplinary authority did not enquire into the matter, that the inquiry officer has not given an independent finding, that the third respondent ought to have analysed the evidence placed during the enquiry, that the third respondent accepted the circumstancial evidence placed in the enquiry, that he was not given any opportunity to examine the defence witness on his behalf, that the appellate order is not a speaking order, that both the appellate authority and revisional authority have failed to take into consideration Rule 14 (1) of the Special Procedure, that the orders are vitiated under Rule 14 (2) of the Rule, and that the authority should have given him a personal hearing.

7. In the reply statement it is stated that the applicant did not submit any explanation to the chargesheet dt. 7-4-90, that Mr.K.Karunakaran was appointed as the Inquiry officer, that on 13-4-91 he submitted report, that a copy of the enquiry officer's report was furnished to the applicant on 9-5-91, that after considering the report and the explanation of the applicant, the disciplinary authority decided to impose the ^{from service} penalty of removal of the applicant, that the enquiry officer in his report clearly pointed out that the witnesses had concealed certain facts to safeguard the applicant. The enquiry officer basing on the prima facie evidence placed on record found the ~~charges~~ charges levelled against the applicant proved, that the statement given by the Superintendent to the effect that on 6-1-90 the applicant assaulted Mr.K.Muralidhar Rao, that the same was accepted by the two witnesses viz., Mr.R.Job and Mr.A.Prakasa Rao

8. The third respondent after going through the entire records accepted the findings of the Inquiry officer, that the disciplinary authority has not held in his order dated 10-6-92 that the applicant is liable for punishment under Rule 14 (1) Railway Servants (D&A) Rules, 1968, and that the applicant was removed from service.

9. He was found guilty by the competent Court in Criminal case No.113/90. The judgement in the criminal case was delivered on 22-04-91. The applicant submitted his appeal against the order of dismissal only on 17-06-92. On 14-09-92 the respondent No.1 rejected the revision petition and that there are no grounds to interfere with the orders impugned by in this application.

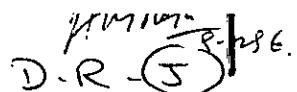
10. The disciplinary authority has analysed the evidence placed on record before the Inquiring authority. There is nothing on record to show that the Inquiry authority refused the prayer of the applicant to examine the defence witness on his behalf. Further, the disciplinary proceedings are not Civil Trial or Criminal Trial. The disciplinary proceedings are intended to ascertain the conduct of the delinquent employee. No strict rules of evidence is applicable to the disciplinary proceedings. There is nothing on record to show that the enquiry authority denied any opportunity to the applicant during the enquiry. Further, we do not find any illegality or infirmity in the enquiry conducted against the applicant.

11. This Tribunal cannot act as an appellate forum and re-appreciate the evidence. Hence, we feel that we cannot interfere with the impugned orders.

12. In view of the above, there is no merit in this OA and the same is accordingly dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER(JUDL.) 311196
Dated : The 3rd December 1996.
(Dictated in the Open Court)


(R. RANGARAJAN)
MEMBER(ADMN.)


D.R. (J) 286

22/12/86
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Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN: M(A)

E
The Hon'ble Shri B.S.Jai Parameshwar

DATED: 3/12/86 M(T)

ORDER/JUDGEMENT
R.A/C.P./M.A.NO.

in

O.A.NO. 1290/83

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED ✓
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.

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