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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD.

O.A.NO.103/93 & MA 226/95

DATE OF JUDGMENT: 26-4-95.

BETWEEN:

S.Vishnuvardhana Rao

... Applicant

vs.

1. The Asst. Divisional Railway Manager,  
S.C.Railway, Vijayawada.
2. The Sr.Divisional Signal & Telecom. Engineer,  
(Maintenance), S.C.Railway, Vijayawada.
3. The Divisional Signal & Telecom Engineer (North),  
S.C.Railway, Vijayawada.
4. Chief Signal Inspector, S.C.Railway,  
Rajahmundry.

... Respondents

COUNSEL FOR THE APPLICANT: SHRI K.Venkatesh.

COUNSEL FOR THE RESPONDENTS: SHRI N.V.Ramana,  
Sx./Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN  
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD....2.

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OA 103/93 & MA 226/95.

Dt. of Order:26-4-95.

(Order passed by Hon'ble Justice Shri V.Neeladri Rao,  
Vice-Chairman)

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The applicant, a <sup>h</sup>kalasi in the Railways was convicted for the offence under section 3(a) of R.P.(U.P.) Act by the VI Metropolitan Magistrate as per order dt.15-5-92 in C.C.No. 95/85 and he was sentenced to undergo rigorous imprisonment for one year. Basing on the said conviction the applicant was removed from service by order dt.20-11-92 by Respondent No.2 under Rule 14(1) of Railway Servants (Discipline & Appeal) Rules, 1968. This Original Application was filed on 8-2-93 challenging the said order.

2. It is stated for the applicant that he made a representation dt.8-2-95 to the Respondent No.2 <sup>by writing</sup> that he was acquitted by order dt.25-12-94 by First Additional District and Sessions Judge in Criminal Appeal No.113/92. ~~It is stated that~~

3. M.A.226/95 is filed in this Original Application praying for a direction to the Respondents to re-instate the applicant and for payment of salary and other allowances from the date of removal.

4. Rule 14(1) of the Railway Servants (Discipline & Appeal) Rules, 1968 empowers the Disciplinary Authority to consider the circumstances of the case ~~in a case~~ where any ~~any~~ penalty is imposed on a Railway Servant on the ground of conduct which ~~is~~ <sup>is</sup>

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led to his conviction on a Criminal charge and to make such order thereon as it deems fit without making any enquiry under Rules 9 to 13. The impugned order of removal was passed by the Respondent No.2 invoking the Rule 14 of the Discipline & Appeal Rules when he was convicted and sentenced by the VI Metropolitan Magistrate for Railways, Visakhapatnam in CC No.95/85.

5. But when once the said conviction and sentence are set aside by the Appellate Court in the Criminal Appeal or in Revision Petition, the order of removal passed by invoking Rule-14 of Discipline & Appeal Rules stands set aside. Ofcourse, in such a case it is open to the Disciplinary Authority to initiate if it is not yet initiated, or to continue the Departmental Enquiry, if it is already initiated on the basis of the same allegations which are the subject matter of the Criminal Proceedings, if that authority after perusing the judgement of the Courts on Criminal side satisfies that the circumstances warrant initiation or continuation of the Departmental Enquiry. In such a case when the concerned authority was informed that the employee was acquitted by the Appellate/Revisional Court, the employee has to be reinstated from that date. But it is unfortunate that even though the fact of the acquittal was brought to the notice of the Respondent No.2 by representation dt.8-2-95, the applicant was not taken on duty, and hence the applicant was constrained to file MA 226/95. It is ofcourse open to the concerned authority to suspend the employee if any decision is taken for continuation/initiation of the Departmental Enquiry, even after the acquittal xxxx xxxx xxxx xxxx xxxx xxxx

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and in such a case the subsistence allowance is payable from that date. But it is not the case of the Respondents that any order of suspension was passed after Respondent No.2 was informed about the acquittal of the applicant by the Appellate Authority. It is merely stated that the said representation dt.8-2-95 is still under consideration. There is nothing for consideration in regard to the question as to whether the applicant has to be reinstated or not. It is open to the concerned authority to suspend even after reinstatement, if a decision is taken for continuation/initiation of the Disciplinary Proceedings and if the circumstances warrant suspension.

6. It is further urged for the applicant that he is entitled to full salary and allowances from the date of removal. We cannot accept the said contention. It is a matter for consideration in accordance with rules. The concerned authority has to pass necessary orders in regard to the same by taking steps expeditiously and preferably by 31-5-95 after giving due notice to the applicant. It is needless to say that if the applicant is going to be aggrieved in regard to the order about the same, he is free to move this Tribunal under section 19 of the A.T.Act.

7. In the result, the O.A. and the M.A. are disposed as under :-

(a) The applicant has to report to Respondent No.2 by 5-5-95. He is entitled to salary and allowances from the date on which his representa-

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tion dt.8-2-95 ~~was~~ received by Respondent No.2. If the applicant fails to report on 5-5-95, the period from 5-5-95 till he reports to Respondent No.2 has to be treated as Leave without pay.

(b) Respondent No.2 had to initiate steps expeditiously and preferably by 31-5-95 ~~as soon as~~ as to how the period from the date of removal till the date on which representation dt.8-2-95 was received, had to be treated. The same had to be considered in accordance with law ~~and~~ after giving due notice to the applicant. If the applicant is going to be aggrieved in regard to the order that had to be passed, he is free to move this Tribunal under Section 19 of the A.T.Act.

7. Miscellaneous Application and Original Application are ordered accordingly. No costs. /

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(R.RANGARAJAN)  
Member (A)

*V.Neeladri Rao*  
(V.NEELADRI RAO)  
Vice-Chairman

Dt.26th April, 1995.  
Dictated in Open Court.

*4/4/95-1-5-95*  
Deputy Registrar (J)CC

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To

1. The Asst.Divisional Railway Manager,  
S.C.Rly, Vijayawada.
2. The Sr.Divisional Signal & Telecom, Engineer, (Maintenance)  
S.C.Rly Vijayawada.
3. The Divisional Signal & Telecom Engineer(North)  
S.C.Rly, Vijayawada.
4. The Chief Signal Inspector, S.C.Rly, Rajahmundry.
5. One copy to Mr.K.Venkatesh, Advocate, ~~202~~ 1-1-64/3  
RTC 'X' Roads, Hyderabad.
6. One copy to Mr.N.V.Ramana, ~~202~~ SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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TYPED BY  
COMPARED BY

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. R. RANGARAJAN: M(ADMIN)

DATED - 26 -4 1995.

ORDER/JUDGMENT:

M. A. / R. A. / C. A. NO.

O. A. No. 103/93. & <sup>in</sup> MA 226/95.  
T. A. No. (W. P.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

Central Administrative Tribunal  
**DESPATCH**

1 MAY 1995

HYDERABAD BENCH