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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1426/93

Date of Order: 30.11.93

BETWEEN:

Abdul Rahim Khan

.. Applicant

A N D

1. Senior Divisional Commercial
Manager, S.C.Railway,
Vijayawada.

2. Divisional Railway Manager,
S.C.Railway, Vijayawada.

.. Respondents.

Counsel for the Applicant

.. Mr.G.V.Subba Rao

Counsel for the Respondents

.. Mr.J.R.Gopal Rao

CORAM:

HON'BLE JUSTICE Mr.V.NEELADRI RAO : VICE-CHAIRMAN

HON'BLE Mr.R.RANGARAJAN : MEMBER (ADMN.)

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30.11.93

(2)

O.A.no.1426/93.

Date: 30-11-93

J U D G M E N T

X as per Hon'ble Sri R. Rangarajan, Member(Administrative) X

Heard Sri G.V.Subba Rao, learned counsel for the applicant and Sri JR. Gopala Rao, learned counsel for the respondents.

2. Charge-sheet dt. 23.4.1986 was issued to the applicant on the basis of some allegations that he ^A~~was~~ had committed theft of booked Railway Articles (parcels) from Brake-vans, and introduced ^A~~Sri~~ Ch. Balaiah and Raja Rao to Sri Hemandass ^{A through whom}~~by which~~, they had disposed off stolen Railway properties to Sri Heman Doss and thus failed to maintain absolute integrity and violated Rule 3(1)(i) of Railway Conducting Regulations. Proceedings for the above offences under section 3(a) of the RPIPD Act, 1966 were initiated for the above mentioned charges in C.C.No.135 of 1986 on the file of VII Metropolitan Magistrate for Railway, ~~...~~ herein. The applicant was discharged vide orders passed by the learned I Class Magistrate for Railways (VII Metropolitan Magistrate for Railways) in C.C.No.135 of 1986 21.10.1991 under sec.245(1) Cr.P.C. The learned Magistrate ordered that the said case shall be proceeded in respect of other accused under sec.246 Cr.P.C. for the alleged offence. It is stated that an Inquiry Officer was appointed after the disposal of the above referred C.C.No. 135 of 1986 by order dt.26.10.1992 issued by the Assistant Commercial Manager, without assigning any reasons for proceeding again with the enquiry on the same charge for which the applicant was discharged by a competent forum.

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3. This O.A. was filed praying for a declaration that the proceedings dt. 23.4.1986 bearing No.B/DCS/CON/174/85 as arbitrary, illegal and without any jurisdiction and to quash the charge memo dt. 23.4.1986. It is also prayed by the applicant to direct the respondents to regularise the suspension period of the applicant from 28.5.1985 to 19.4.1988 with all consequential benefits and for a declaration that the action of respondents in not promoting the applicant to the next higher post with effect from the date of promotion of his next junior, is arbitrary, illegal and to consequently direct the respondents to promote the applicant to the post of Ticket Collector from the date of his junior was promoted and also ^{to} ~~in~~ the grade of Assistant Guard from the date his junior was promoted with all consequential benefits.

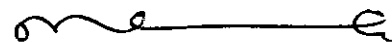
4. One of the accused in C.C.No.135 of 1986 on the file of VII Metropolitan Magistrate, Vijayawada filed an application in O.A.No.539 of 1993 before this Tribunal praying for declaring the proceedings dt. 23.10.1992 appointing a fresh Inquiry Officer ^A ~~appointing a fresh~~ ~~Inquiry Officer~~ in pursuance of charge memo dt. 23.4.1986 as arbitrary. Therein also he prayed for the other two reliefs which are claimed in the present O.A. The said O.A. was disposed of by a Bench of this Tribunal by order dt. 7.7.1993 (Hon'ble Vice Chairman and a Member of this Bench). Therein, it was held that the Disciplinary authority has not even perused the Judgment in C.C.No.135/86 before passing the order dt. ^A 26.10.1992 and whereby an Inquiry Officer was appointed. The Inquiry notice given by the Disciplinary Authority was set aside.

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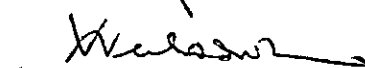
5. It is now well settled that it is open for the Disciplinary Authority to proceed with the proceedings in pursuance of charge memo issued when the charges on the basis of which charge memo was given by the disciplinary authority and charge-sheet filed on the file of VII Metropolitan Magistrate, Vijayawada are identical so long as there are justifiable reasons for proceeding with the inquiry. The disciplinary authority can come to the conclusion as to whether there is justification for continuing the disciplinary proceedings which they can arrive at only after perusing the judgment in the criminal case. Hence, we feel it proper to pass the following order:

The order dt. 26.10.1992 appointing the Inquiry Officer is set aside. But, this order does not bar the 1st respondent to peruse the Judgment in C.C.No.135/86 on the file of VII Metropolitan Magistrate for Railway, Vijayawada and decide as to whether there is justification for continuing the proceedings and if there is justification, he can proceed with the disciplinary proceedings by appointing an Inquiry Officer.

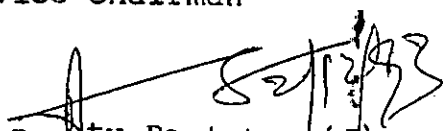
6. The O.A. is thus ordered accordingly at the admission stage, with no costs.



(R.Rangarajan)
Member(Admn.)


(V.Neeladri Rao)
Vice-Chairman

Date 30-11-92

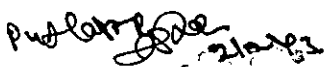

Deputy Registrar(J)

Grh.

To

1. The Senior Divisional Commercial Manager, S.C.Rly, vijayawada.
2. The Divisional Railway Manager, S.C.Rly, vijayawada.
3. One copy to Mr.G.v.Subba Rao, Advocate, CAT.Hyd.
4. One copy to Mr.J.R.Gopal Rao, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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TYPED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

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

AND

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

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

Dated: 30-11-1993

ORDERED.

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

in

O.A.No. 1426/93

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.
Dismissed for default.

Rejected/Ordered.
Central Administrative Tribunal
No order as to costs.
ATCH

21/12/93

7 DEC 1993

HYDERABAD BENCH