

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA 1430/93.

Dt. of Order:18-11-93.

1. M.Satyanarayana
2. S.Abdul Sattar

....Applicants

Vs.

1. Divisional Railway Manager,
(Commercial), SC Rlys, Vijayawada.
2. Asst.Catering Manager (Claims) &
Enquiry Officer, SC Rlys, Vijayawada.
3. General Manager, SC Rlys.
4. Union of India, rep. by its
Chairman, Railway Board, New Delhi.

....Respondents

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Counsel for the Applicants : Shri V.Rama Rao

Counsel for the Respondents : Shri C.V.Malla Reddy, SC for
Rlys

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CORAM:

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

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

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....2.

18/11/93
7.

I AS PER SHRI V. NEELADRI RAO, VICE-CHAIRMAN I

OA No. 1430/93

Judgement dated 18-11-93

Heard Shri V. Rama Rao, learned counsel for the applicants, and also Shri C.V. Malla Reddy, learned counsel for the respondents.

Charge memo. dated 24-4-86 was issued to the applicants on the basis of some allegations that they were negligent in their duties during the four thefts said to have been committed between September 1983 to February, 1985. Criminal case CC 135/86 for the above offences u/s 3(a) of R.P. against the applicants for the above mentioned charges on the file of Special Judicial 1 Class Magistrate for Railways. While the applicants were discharged under section 245(1) Cr. P.C. vide orders in CC No. 135/86 dt. 21.10.91, the learned Magistrate ordered that the said case shall be proceeded in respect of other accused u/s 246 Cr. P.C. for the alleged offences. After the disposal of the C.C 135/86 an enquiry officer was appointed by order dated 23-10-92 to proceed with the disciplinary proceedings in pursuance of the charge memo. dated 24-4-86. This OA was filed praying for declaration that the proceedings dated 23-10-92 are arbitrary, illegal and without jurisdiction and to quash charge memos. dated 24-4-86 and to direct the respondents to regularise the suspension period of the applicants from 8-5-85 to 7-4-88 with all consequential benefits and for declaration that the action of the respondents in not promoting the applicants to the


next post with effect from the date of promotion of their next juniors is arbitrary, illegal and to consequentially direct the respondents to promote the applicants to the post of Grade C Guard with retrospective effect from the date of promotion of their next junior with all consequential benefits.

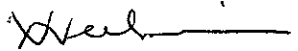
One of the accused in CC 135/86 on the file of 7th Metropolitan Magistrate, Vijayawada filed OA No. 359/93 praying for declaration that the proceedings dated 23-10-92 appointing fresh Enquiry officer in pursuance of charge memo. dated 24-4-86 ^{is} as arbitrary. Therein also he prayed for the other two reliefs which are claimed in this OA also. The said OA was disposed of by a bench of C.A.T. Hyderabad by order dated 7-7-93 (Vice-Chairman is a member of that Bench). Therein it was held that as the disciplinary authority had not even perused the judgement in C.C. 135/86 before passing the order dated 23-10-92 whereby an enquiry officer was appointed, the order of the disciplinary authority to proceed with the enquiry is vitiated and it was set aside.

It is well settled that in a case of discharge or acquittal, it is open to the disciplinary authority to proceed with the disciplinary proceedings in pursuance of the charge memo. issued though the allegations on the basis of which charge memo. was given by the disciplinary authority and the charge sheet filed on the file of Metropolitan Magistrate are identical so long as there are justifiable reasons for proceeding with the enquiry. The disciplinary authority

cannot come to the conclusion as to whether there is justification for continuing the disciplinary proceedings without perusing the judgement in the criminal case. Hence we feel it proper to pass the following order.

" The order dated 23-10-92 is set aside. But this order does not ^{debar} ~~bar~~ the 1st Respondent to peruse the judgement in CC 135/86 on the file of 7th Metropolitan Magistrate, Vijayawada and to decide as to whether there is justification for continuation of enquiry and if there is justification he can proceed with the disciplinary proceedings by appointing the enquiry officer. The OA is ordered accordingly with no costs.


(R. RANGARAJAN)
Member (A)


(V. NEELADRI RAO)
Vice-Chairman

(Open court judgement)


Deputy Registrar

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To

1. The Divisional Railway Manager, (Commercial)
S.C.Rlys, vijayawada.
2. The Asst. Catering Manager (Claims) &
Enquiry Officer, S.C.Rlys, vijayawada.
3. The General Manager, S.C.Rlys,
Railnilayam, Secunderabad.
4. The Chairman, Railway Board, Union of India, New Delhi.
5. One copy to Mr. V. Rama Rao, Advocate, CAT. Hyd.
6. One copy to Mr. C. Venkatamalla Reddy, SC for Rlys, CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. One spare copy.

pvm



MD
30/11/93
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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: 18-11-1993

ORDER/JUDGMENT:

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

in

O.A.No. 1430/93

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.

