

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

* * *

O.A. 1438/93

Dt. of Decision : 3.12.93

SK. Zaheeruddin

. . Applicant

Vs

1. Divisional Railway Manager(Comml.),
SC Railway, Vijayawada.

2. Chief Traffic Inspector
(Sleeper coaches), &
Enquiry Officer,
SC Railway, Vijayawada.

3. General Manager,
SC Railway, Rail Nilayam,
Secunderabad.

4. Union of India rep. by its
Chairman, Railway Board,
New Delhi.

. . Respondents

Counsel for the Applicant : Mr. V. Rama Rao

Counsel for the Respondents: Mr. J.R.Gopala Rao
SC for Rlys.

CORAM:

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

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

BAP
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27: 3.12.93

OA.1438/93

Judgement

(As per Hon. Mr. R. Rangarajan, Member (Admn.))

Heard Sri V. Rama Rao, learned counsel for the applicant and Sri J.R. Gopala Rao, learned counsel for the respondents.

2. Chargesheet dated 23-4-1986 was issued to the applicant on the basis of some allegations that he had committed theft of booked articles (parcels from the break-van) and disposed of the stolen articles and thus failed to maintain absolute integrity and violated Rule 3(1)(i) of Railway Service Conduct Rules, 1966. Criminal proceedings were initiated for the above offence under section 3(A) of RPUP Act, 1966 against the applicant for the above mentioned charges in CC No.135/86 on the file of VII Metropolitan Magistrate for Railways, Vijayawada, against 23 persons including the applicant herein. The applicant was discharged vide orders passed by the learned I Class Magistrate for Railways (VII Metropolitan Magistrate for Railways) in CC.135/86 dated 21-10-1991 under section 245(I) Cr.P.C. The learned Magistrate ordered that the said case shall be proceeded in respect of the other accused u/s.246 Cr.P.C. for the alleged offences. It is stated that an Inquiry Officer was appointed after the disposal of CC.135/86 by order dated 26-10-1992 issued by the Assistant Commercial Manager, without assigning any reasons for proceeding again with the inquiry on the same charge for which the applicant was discharged by a competent Court.

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22/12/93

3. This OA was filed praying for a declaration that the proceedings dated 23-4-1986 bearing No.B/DCS/Con/174/88, as arbitrary, illegal and without any jurisdiction and quash the charge memo dated 23-4-1986. It is also prayed by the applicant to regularise the suspension period from 13-6-1985 to 7-4-1988 with all consequential benefits and for a declaration that the action of the respondents in not promoting the applicant to the next higher post with effect from the date of promotion of his next junior as arbitrary illegal and consequently to direct the respondents to promote the applicant to the post of Assistant Guard with retrospective effect from the date of promotion of his next junior with all consequential benefits.

4. One of the accused in CC.135/86 on the file of VII Metropolitan Magistrate, Vijayawada, filed an application in OA.539/93 before this Tribunal praying for declaring the proceedings dt.23-10-92 appointing a fresh Inquiry Officer in pursuance of charge memo dated 23-4-1986 as arbitrary. Therein also he prayed for the other two reliefs which are claimed in this OA. The said OA was disposed of by a Bench of this Tribunal by order dated 7-7-1993 (Hon. VC and a Member of this Bench). Therein it was held that the

in CC.135/86 before passing the order dated 26-10-1992, and whereby an Inquiry Officer was appointed. The Inquiry notice given by the Disciplinary authority was set aside. Following the above judgment, the respondents were passed in a similar case filed in this Tribunal bearing No.OA.1426/93 dated 30-11-1993.

5. It is now well settled that it is open for the Disciplinary authority to proceed with the proceedings in

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1. Divisional Railway Manager(Comml.), S.C.Railway,
Vijayawada.

2. Chief Traffic Inspector (Sleeper Coaches), & Enquiry Officer, S.C. Railway, Vijayawada.

3. General Manager, S.C. Railway, Rail Nilayam, Secun-
derabad.

4. Chairman, Railway Board, Union of India, New Delhi.

5. One copy to Sri. V.Rama Rao, advocate, 3-5-926/19/A, 1st floor, Main road, Himayatnagar, Hyd.

6. One copy to Sri. J.R.Gopala Rao, SC, for Rlys, CAT, Hyd.

7.- One copy to library, EAT, Hyd.

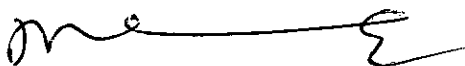
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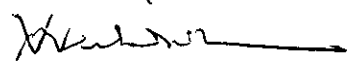
pursuance of charge memo issued when the charges on the basis of which charge memo was given by the Disciplinary authority and chargesheet filed on the file of VII Metropolitan Magistrate, Vijayawada are identical so long as there are justifiable reasons for proceedings with the inquiry. The Disciplinary 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 judgement in the criminal case. Hence, we feel it proper to pass the following order :

The order dated 26-10-1992 appointing the Inquiry Officer is set aside. But, this order does not bar the 1st Respondent to peruse the Judgement in CC.135/86 on the file of VII Metropolitan Magistrate for Railway, Vijayawada, and decide as to whether there is justification for continuation of Inquiry proceedings and if there is justification, he can proceed with the disciplinary proceedings by appointing an Inquiry Officer.

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



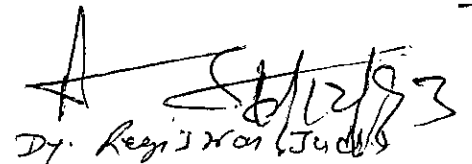
(R. Rangarajan)
Member (Admn)



(V. Neeladri Rao)
Vice Chairman

Dated : December 3, 93

sk



Dy. Registrar (Judicial)

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4/12/93
R. Rangarajan
7/12/93

O.A. 1438743

TYPED BY

COMPARED BY

CHECKED BY

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. GORTHY : MEMBER(A)

AND

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

AND

THE HON'BLE MR. K. SANGARAJAN : MEMBER(A)

Dated: 3/12/1993

ORDER/JUDGMENT:

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

O.A.No. 1438743

T.A.No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

DISPATCHED
AM 9
DEC 1993

pvm