

(71)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. No. 1094/93

Dt. of Decision : 4.4.1994

M. Rajaram

.. Applicant

Vs

1. Senior Divisional Engineer,
(North) (BG),
Secunderabad Division,
South Central Railway,
Secunderabad.
2. Assistant Engineer,
South Central Railway,
Bellampally,
Adilabad District

.. Respondents.

Counsel for the Applicant : Mr. P. Krishna Reddy

Counsel for the Respondents : Mr. D. Francis Paul, SC for
Rlys.

CORAM:

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

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

(72)

O.A.NO.1094/93.

JUDGMENT

Dt: 4.4.94.

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri P.Krishna Reddy, learned counsel for the applicant and Shri D.Francis Paul, learned standing counsel for the respondents.

2. A charge memo dated 23.10.1992 was issued to the applicant by alleging that on 19.10.1992 the applicant while working as Gangman G.No.4/MAGH has attempted to assault PWI Gr.I Shri G.Ramakrishna Reddy duly locking the doors and keeping the PWI alone in the room. It is submitted for the respondents that on the first date of the inquiry in regard to the above charge, the applicant prayed for time by stating that he was on sick list. On the next date of adjournment, the applicant requested for stay of the proceedings by alleging that Criminal Case No.479/92 on the file of the 1st Class Judicial Magistrate, Rajurā was pending against him in regard to the alleged incident which is the subject matter of the charge memo dated 23.10.1992. When the proceedings were not stayed, the applicant did not participate in the inquiry and on the basis of the exparte inquiry, the applicant was removed from service by the order dated 1.6.1993 of the 2nd respondent. The appeal thereon was dismissed by the 1st respondent. This OA was filled challenging the same.

3. On a perusal of the copy of the F.I.R. in Crime No.82/92 of Wirur Police Station with the statement of imputation in regard to the charge memo dated 23.10.1992 it is evident that both are in regard to the alleged

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~~*****~~ attempt of assault of the PWI by the applicant at about 5.45 pm on 17.10.1992. It is stated that if the departmental inquiry is going to be held before the Criminal Case in regard to the same charge is disposed of, it will cause prejudice to the applicant and hence the inquiry should have been stayed. For the reasons stated, the said contention for the applicant has to be upheld. As such, the inquiry proceedings subsequent to the stage of issual of ~~*****~~ the charge memo dated 23.10.92 *and hence the order of removal has to be set aside* has to be quashed. For the above reason, there is no need to advert to the other contentions for the applicant. But, it is open to the respondents to proceed with the inquiry ~~is~~ after the disposal of the CC 479/92 *in the circumstances mentioned*.

for respondents

4. It is stated that the applicant was transferred from Manigarh to Bellampalli and that the applicant reported for duty at Bellampally on 10.1.1993 and from 11.1.1993, the applicant was absent. It is stated for the applicant that he applied for medical leave. It is not necessary for us to consider at this stage as to whether in fact the applicant applied for medical leave for the period subsequent to 10.1.1993; but suffice it to observe that the applicant did not work from 11.1.93 till 1.6.1993, the date of removal. It is stated for the applicant that the Doctor issued fitness certificate on 5.6.1993. But the respondents have no occasion to consider that alleged fitness certificate. As the applicant did not work for more ^{than} 4½ months before the date of removal, it is just and proper to hold that the period from the date of removal till the date on which

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the applicant has to be reinstated in pursuance of this order should be treated as leave without pay. The applicant has to be reinstated within one week from the date he reports to the Chief ^{Permanent way} ~~Public Works~~ Inspector, Bellampally along with a copy of this order.

5. As the applicant was transferred from Manigarh to Bellampally even in January 1993 and as the applicant also reported for duty at Bellampally in January 1993, the applicant is not entitled to retain the quarters at Manigarh. Hence, the interim order dated 6.9.1993 whereby the respondents were directed not to evict the applicant from the Government quarters at Manigarh, as continued by the order dated 11.10.1993, has to be vacated.

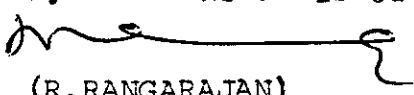
6. In the result, the impugned order dated 1.6.1993 of the 2nd respondent whereby the applicant was removed from service as confirmed by the 1st respondent is set-aside. The applicant has to be reinstated within one week from the date on which the applicants reports with a copy of this order before the Chief ^{Permanent way} ~~Public Works~~ Inspector at Bellampally. The period from 1.6.1993 till the date of reinstatement as per this order has to be treated as leave without pay. The respondents are free to continue the inquiry from the stage of ~~xxxxxxxxxx~~ issual of the charge memo dated 23.10.1992 after the disposal of the CC 479/92 on the file of the Ist Class Judicial Magistrate, Rajura, if the circumstances warrant. The interim order dated 6.9.1993 as continued by the order dated 11.10.1993 whereby the respondents were directed not to evict the applicant

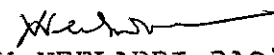
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from the Railway quarters at Manigarh are vacated. The applicant has to vacate the quarters at Manigarh within two weeks from the date he is reinstated at Bellampally as per this order. The respondents are free to initiate eviction proceedings if the applicant is not going to report with a copy of this order before the Chief ^{Permanent} ~~Public~~ ^{way} Works Inspector, Bellampally by 25.4.1994.

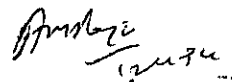
7. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 4th April, 1994.
Open court dictation.

vsn


Dy. Registrar (Judl.)

Copy to:-

1. Senior Divisional Engineer, (North) (BG), Secunderabad Division, South Central Railway, Secunderabad.
2. Assistant Engineer, South Central Railway, Bellampally, Adilabad District.
3. One copy to Sri. P. Krishna Reddy, advocate, CAT, Hyd.
4. One copy to Sri. D. Francis Paul, SC for Rlys, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-



O.A. 1094/93

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. A. B. GORTHI : MEMBER (AD)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

Dated: 4/4/-1994

ORDER/JUDGMENT

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

in

O.A. No. 1094/93

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.

pvm

Central Administrative Tribunal
DESPATCH
18 APR 1994
HYDERABAD BENCH

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[Handwritten initials]
[Handwritten "copies"]