

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

OA.904/94

dt.2-9-97

Between

G. Venkataratnam

: Applicant

and

1. Asstt. Mech. Engr.  
Loco South Central Rly.  
Rajahmundry

2. Divnl. Rly. Manager(P)  
SC Rly., Divnl. Office  
Vijayawada 520001

3. Chief Personnel Officer  
SC Rly., Rail Nilayam  
Secunderabad 500371

4. Secretary  
Railway Board, Rail Bhavan  
New Delhi 110001

: Respondents

Counsel for the applicant

: G.V. Subba Rao  
Advocate

Counsel for the respondents

: V. Rajeswara Rao  
SC for Railways

CORAM

HON. MR. H. RANGARAJAN, MEMBER (ADMN.)

HON. MR. B.S.JAIPARAMESHWAR, MEMBER (JDL)

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## Judgement

Oral order (per Hon. Mr. B.S. Jai Parameshwar, Member(J)

Heard Sri G.V. Subba Rao for the applicant and Sri V. Rajeswara Rao for the respondents.

1. The applicant herein while working as Loco Khalasi, Rajahmundry, remained absent unauthorisedly for a period of 452 days between 1984 and 1986. Thereafter on 19-5-1986 a major penalty of charge sheet was served on him. A detailed inquiry was conducted into his unauthorised absence. The applicant participated in the Disciplinary Proceedings. After accepting the report of the Inquiry Officer, the Disciplinary authority removed the applicant from service vide penalty advice No.B:P:III:88/3 dated 10-1-1988. Against the said imposition of penalty the applicant preferred an appeal dated 2-2-1988. The Appellate authority by his proceedings dated 1-3-1988 vide B:P.90/III 86/1 confirmed the punishment and rejected the appeal. Against the said order of the Appellate authority the applicant preferred a Revision petition by proceedings dated 3-5-1988 vide.B:P.90/III/88/1.

2. Subsequently, the applicant submitted certain representations for re-opening his case. The respondents stated that all the avenue under the rules having been exhausted his request for reopening the case <sup>could</sup> cannot be complied with.

3. The applicant has filed this OA to call for the records of the impugned order and to set aside the same.

The prayer portion is as vague as it could be that it does not disclose what the applicant is going to challenge in the OA. Admittedly, his revision petition came to be rejected on 3-8-1988. The applicant presented this OA on 19-7-1994. Even in the prayer portion he has not made it clear as to what order he is challenging in the OA. Admittedly, he has not produced the copy of the order dated 3-5-1988.

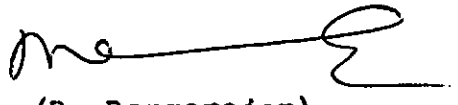
4. In the reply filed by the respondents they have specifically stated that the order of the Revision<sup>al</sup> authority was communicated to him by Registered post on 3-5-1988 and subsequently the applicant appeared before them in person and requested for a copy of the order stating that he had not received the order sent by Registered Post and that on 27-5-1988 a copy of the order was served on him personally under his signature. If this is so the applicant should have filed this OA in the year 1988 challenging the imposition of penalty in the Disciplinary Proceedings.

5. The applicant submits that the impugned Removal Order was passed by Assistant Mechanical Engineer, who is a Group-B Officer. A Group-B officer is not competent to issue removal order in accordance with Schedule of Powers enclosed in the Railway Disciplinary and Appeal Rules. But this contention should have been raised to the Appellate authority. Now it is too late for this Tribunal to consider and pass an order on merits as the OA has been filed very belatedly. Hence, we do not propose to go into the merits of the case. And thus the OA has to be dismissed on <sup>the point</sup> account of limitation. However, we take sympathetic view in this case as the applicant is stated to be an illiterate employee

and <sup>is</sup> also hailing from a reserved community with lot of liability<sup>ies</sup>. In that view we feel that the applicant <sup>if so advised</sup> may now submit a detailed Mercy Petition for reinstating him in service to The General Manager, SC Railway. If such a petition is received by the General Manager in two to three months' time, the same should be disposed of by him taking due note of points in accordance with law sympathetically within a period of two months from the date of receipt of such mercy petition.

6. The OA is ordered accordingly. No costs.


  
(B.S. Jai Parameshwar)  
Member (Judl.)

  
(R. Rangarajan)  
Member (Admn.)

2.9.97

Dated : September 2, 97  
Dictated in Open Court

sk

  
D.R. (J)

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Copy,

1. Assistant Mechanical Engineer, Loco,  
South Central Railway, Rajahmundry.
2. Divisional Railway Manager, (Personnel)  
South Central Railway, Divisional Office,  
Vijayawada.
3. The Chief Personnel Officer, South Central Railway,  
Railnilayam, Secunderabad.
4. The Secretary, Railway Board,  
Rail Bhavan, New Delhi.
5. One copy to Mr. G.V. Subba Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr. V. Rajeswara Rao, Addl. CGSC, CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One copy to HBSJ, & Member (J), CAT, Hyderabad.
9. One duplicate copy.

YLKR

23/9/97  
TYPED BY  
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CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD

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

AND

THE HON'BLE SHRI B.S. JAI P. R. MESHVAR:  
(M) (J)

Dated: 2/9/97

ORDER/JUDGEMENT

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

in

C.A.NO. 904/84

Admitted and Interim Directions  
Issued.

Allowed

Disposed of with Directions  
Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court

