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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1175/94

Date of Order: 28.7.97

BETWEEN :

B.Prasad Rao

.. Applicant.

AND

1. Divisional Commercial Superintendent,
S.C.Railway, Vijayawada.
2. ~~Divisional Commercial Superintendent,~~
BG Division, Secunderabad.
3. Additional Divl.Railway Manager,
S.C.Rly., Secunderabad BG Division,
Secunderabad.
4. Chief Commercial Superintendent,
Secunderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.G.V.Subba Rao

Counsel for the Respondents

.. Mr.D.F.Paul

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

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

JUDGEMENT

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Heard Mr. G.V.Subba Rao, learned counsel for the applicant and Mr.D.F.Paul, learned standing counsel for the respondents.

2. The applicant while working as Reservation Clerk at Guntur was issued with the charge sheet which read as below:-

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"That sri B.Prasada Rao, while functioning as ECRC/Guntur during June '87, committed serious misconduct in that on 12.6.87 while he was on duty at Counter No.3, during a vigilence check, the said ECRC produced Rs.19/- as excess cash (Railway) which was gained by him through illegal means .

Thus Sri B.Prasada Rao failed to maintain absolute integrity and violated Rule 3 (1) of Railway Services (Conduct) Rules, 1966".

That was disposed of by the disciplinary authority by his order No.CON.SC.C.22.89, dt. 18.12.90 (page-12) with the following punishment :-

"Accordingly, his pay which was already reduced from the stage of Rs.1520/- to the bottom of the grade Rs.1400-2300 (RSRP) for a period of two years with cumulative effect vide penalty order No.CON.SC.C.16.89 dt. 12.4.89 and withholding of increment for a period of 6 months (NC) imposed vide penalty Order No.C/C/518/P/229/88 dt.16.3.89 and after completion of the above two penalties is reduced from the stage of Rs.1520/- to the stage of Rs.1440/- in time scale of pay for a period of one year with cumulative effect".

3. Against that order the applicant filed an appeal which was disposed of by Senior DCS by order No.CON.SC.C.22.89, dated 3.4.91 (page-13). It is stated that the applicant filed a revision petition to the ADRM. However it is also stated that ADRM even before the appellate order was passed issued a show cause notice by memorandum No. CON/SC/C/22/89, dt. 1.5.91 (A (page-14). That show cause notice was disposed of by imposing the punishment by the reviewing authority, namely, ADRM II, Secunderabad by order No.Con.Sc.C.22.89, dt. 1.7.91 (page-16). Against the order of ADRM the applicant filed an appeal to the CCS. Which was disposed of by order No. P.86/SC/BPR/1441, dt. 20.2.92 (Page-17) confirming the orders of the Senior DCS by the disciplinary and appellate authority.

4. This OA is filed for setting aside the impugned orders by holding the same as arbitrary, illegal and unconstitutional.

5. In the relief column nowhere it is stated which impugned order is to be set aside. In view of that no definite relief can be given on the basis of the relief. However the learned counsel for the applicant submitted that the reviewing authority namely, ADRM II, Secunderabad, has issued the show cause notice even earlier to the disposal of the appeal dt. 3.4.91. Hence the issue of show cause notice itself is illegal and any penalty passed on the basis of the show cause notice by ADRM is illegal and hence the memorandum dt. 1.7.91 enhancing the punishment is to be treated as null and void.

6. In any case the applicant had already filed an appeal against the order of the ADRM and that was disposed of by CCS Secunderabad by the order dt. 20.2.92 by setting aside the orders of ADRM by his memorandum dt. 1.7.91 and upholding the penalty and confirmed by the Appellate Authority. In view of the above the challenge to the show cause notice and the order of the ADRM has already been set aside by the departmental authorities themselves. Hence no further order is required in regard to the show cause notice of ADRM.

7. In the present case CCS had acted as an appellate authority. Hence a review exists above the superior authority of CCS. The superior authority is the General Manager, S.C. Railway, Secunderabad. Hence the applicant may now file a fresh review petition against the orders of ~~CCS~~ to the General Manager, S.C.Railway, if he ^{CCS} so advised. If such a review petition is received by the General Manager then the same should be

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disposed of by the General Manager in accordance with the law within three months from the date of receipt of review petition without considering the question of limitation if any.

8. With the above direction the OA is disposed of.

No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)

28.7.97


(R.RANGARAJAN)
Member (Admn.)

Dated : 28th July, 1997

(Dictated in Open Court)

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Anubh
D.R.G.J.

~~YSL~~
TYPED BY
COMPARED BY

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 PARAMESHWAR: M
(J)

DATED: 28/7/97

ORDER/JUDGEMENT

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

DA 1175/94

in

O.A.NO. 1175/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLR

II Court.

केन्द्रीय प्रशासनक अधिकारण
Central Administrative Tribunal
प्रेषण/DESPATCH

5 AUG 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH