

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL . HYDERABAD BENCH

AT HYDERABAD

O.A.No.1459/94

Date of Order : 20.8.97

BETWEEN :

N.Rukmini Devi

.. Applicant.

AND

1. Chief Medical Officer,  
S.C.Kly., Rail Nilayam,  
Secunderabad-500371.
2. Senior Medical Supdt.,  
S.C.Kly., Hubli.
3. Divisional Railway Manager,  
S.C.Kly., Hubli.
4. Divisional Medical Officer,  
S.C.Kly., Health Unit,  
Bellary.

.. Respondents.

Counsel for the Applicant

.. Mr.G.V.Subba Rao

Counsel for the Respondents

.. Mr. V.Rajeswara Rao

COMMISSION:

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

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

J U D G E M E N T

X Oral order as per Hon'ble Shri B.S.Jai Parameshwar, Member (J) X

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

2. The applicant while working as Midwife remained unauthorised  
from duties from 12.6.86 to 13.7.86. from 25.8.87 to  
30.8.87 and from 4.11.87 onwards. For her unauthorised absence  
a charge sheet dt. 14.1.88 was served on her (page-25). The

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applicant did not participated in the enquiry. The enquiry was concluded ~~as~~ ex-parte. On the basis of the report of the enquiry officer, the applicant was compulsorily retired from service by the impugned order dt. 18.11.88 (page-17). After the punishment order was passed she approached this Tribunal by filing OA.194/90. This Tribunal accepted the said OA only on the ground that she was not furnished with the copy of the enquiry report. Thus the punishment of compulsory retirement was set aside.

3. The respondents furnished a copy of the enquiry report to the applicant. The applicant submitted her explanation and in her explanation she pleaded for a fresh enquiry by her letter dt. 23.9.92 (page-16). The authorities once conceded her request for a fresh enquiry. But however the chances for a They concluded the disciplinary proceedings after considering her explanation. The Additional Divisional Railway Manager, Hubli, by his proceedings No.H/MD.227/RD/BAY-88, dt. 29.9.94 imposed the penalty of removal of the applicant from service.

4. This OA is filed probably challenging the impugned order dt. 29.9.94 by holding it as unconstitutional and for a consequential direction to treat the applicant as having been in continuous service from the date of her compulsory retirement dt. 22.11.88 with all consequential benefits.

5. A reply has been filed by the respondents.

6. The principle contention raised by the learned counsel for the applicant is that in the first instance she was appointed by the Chief Medical Officer, <sup>Southern Railway</sup> Madras, ~~Southern Railway~~ and that the impugned order has been passed by the Additional Divisional Railway Manager, Hubli who is not the competent <sup>authority</sup> to issue the major penalties especially the removal from service. The

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other contention is that the authorities once conceded her request for fresh enquiry and without stating any reasons cancelled the same. The enquiry was ordered after considering her request and hence cancellation of that fresh enquiry ordered by the ADRM Hubli is irregular. Thirdly the ADRM cannot dispose of the disciplinary cases of the medical department as he is not the controlling officer. The controlling officer only can dispose of and in that case only the Chief Medical Officer can dispose of the cases. Hence awarding of the penalty by the ADRM is not only irregular but illegal and without jurisdiction.

7. The applicant has not filed any appeal in this connection to the appropriate authority detailing her contentions for setting aside the impugned removal order. Probably if the contentions as raised now have been made out to the appellate authority that authority would have considered her case in accordance with law and disposed of the same. Though the applicant submits that the OA ~~has been~~ filed may be disposed of by this Tribunal, we feel a quasi judicial authority definitely will take note of all the contentions raised <sup>by</sup> her and also other contentions which she is likely to add in her proposed appeal and dispose of the same in accordance with the law diligently. The only objection that can be raised by the appellate authority is in regard to the point of limitation in filing the appeal. As the OA <sup>has</sup> already been admitted in this Tribunal we feel that a direction has to be given to the appellate authority to deal that appeal without going into the question of limitation.

8. In the result, the applicant if so advised may submit a detailed representation to the competent appellate authority within a period of one month from the date of receipt of a copy of this order. If such a detailed appeal is received by that authority

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then the same should be disposed of by him in accordance with the law taking due note of the observations made by us as above in the judgement and following the extant instructions within three months from the date of receipt of a copy of that representation. *without going into the question of limitation in filing the appeal.*

9. If the applicant requests for a personal hearing the same should be granted before disposing of her appeal.

10. With the above direction the O.A. is ordered accordingly.  
No costs.

प्रमाणित की  
CERTIFIED TO BE TRUE COPY  
*[Signature]*  
मुख्य अधिकारी  
COULF OFFICER  
केंद्र प्रशासनिक न्याय  
Central Administrative Tribunal  
हैदराबाद बेंच  
HYDERABAD BENCH