

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

..A.No./F.A.No.....231.....1994.

A. Sathraian

Applicants (S)

VERSUS

The Asst. operating Manager

Respondent: (S)

O/o DPM (F) & Calcutta

Date

Orders

Supply

Dr

per m25/2/94
HABG
M(A)
one

1-3-94

None for the applicant
adjourned to 17-3-94.

HABG
M(A)

HABG
M(A)

for
1

17.3.94
23.3.94

Notice sent to RR's 142
by RPAD.

R1 - Returned unserved
R2 - sd

or
13/4/94

Notice before
admission.

Post on 14.4.94.
For reply in the mean
while.

Until further
orders the inquiry
is stayed.

HABG
M(A)

HABG
VC

21B

Applicant

Respondent

1. The (100) Assistant Secretary, Hyderabad, Hyderabad.

2. The Public Inspector, General Hospital, Hyderabad.

3. The Public Inspector, General Hospital, Hyderabad.

4. The Public Inspector, General Hospital, Hyderabad.

5. The Public Inspector, General Hospital, Hyderabad.

6. The Public Inspector, General Hospital, Hyderabad.

7. The Public Inspector, General Hospital, Hyderabad.

Copy for:-

1. The (100) Assistant Secretary, Hyderabad, Hyderabad.
2. The Public Inspector, General Hospital, Hyderabad.
3. The Public Inspector, General Hospital, Hyderabad.
4. The Public Inspector, General Hospital, Hyderabad.
5. The Public Inspector, General Hospital, Hyderabad.
6. The Public Inspector, General Hospital, Hyderabad.
7. The Public Inspector, General Hospital, Hyderabad.

Rem/-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

O.A.NO.231 of 1994.

Between

A.Sathaiah

Dated: 17.3.1994.

Applicant

And

1. The (AOM) Assistant Operating Manager, O&O DRM(T), Hyd(MG) Hyderabad.

2. The Traffic Inspector, South Central Railway, Nizamabad Dt.

Respondents

Counsel for the Applicant

: Sri. K.Sudhakar Reddy

Counsel for the Respondents

: Sri. V.Bhimanna, SC for Rlys.

CORAM:

Hon'ble Mr. Justice V.Neeladri Rao, Vice Chairman

Hon'ble Mr. A.B.Gerthi, Administrative Member

The Hon'ble Tribunal made the following order:-

Notice before admission.

Post on 14.4.1994. For reply in the meanwhile.

Further orders the inquiry is stayed.

Deputy Registrar
Deputy Registrar(Judicial)

Copy to:-

1. The (AOM) Assistant Operating Manager, Office of the DRM(T), Hyd(MG), Hyderabad.
2. The Traffic Inspector, South Central Railway, Nizamabad Dist.
3. One copy to Sri. K.Sudhakar Reddy, advocate, CAT, Hyd.
4. One copy to Sri. ~~XXXXXX~~ V.Bhimanna, SC for Rlys, CAT, Hyd.
5. One spare copy.

Rsm/-

THA 28.11
17
3-27

210

O.A. 231/94

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. CHANDRASEKHAR REDDY
MEMBER (J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

Dated: 12/31-1993

ORDER/JUDGMENT.

*Post
Post at 14/4/94
for admission
2/5/94*

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

O.A.No. in
231/94

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

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

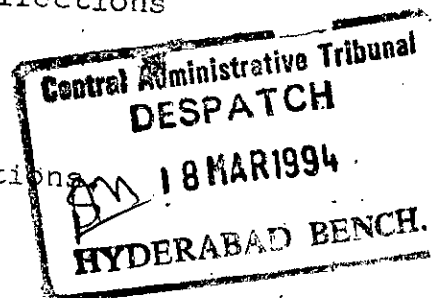
Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.



pvm

3/17/94

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. 231/94.

Dt. of Decision : 15.4.1994.

A. Sathaiah

.. Applicant.

Vs

1. The Assistant Operating Manager,
Office of the DRM (T), Hyd.(MG)
Hyderabad.

2. The Traffic Inspector,
South Central Railway,
Nizamabad. (DIST.)

.. Respondents.

Counsel for the Applicant : Mr. K. Sudhakar Reddy

Counsel for the Respondents: Mr. V. Bhimanna, Addl. CGSC.

CORAM:

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

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

..2

JSP
S
T

J U D G M E N T

{ as per Hon'ble Mr.Justice V.Neeladri Rao, Vice Chairman }

Charge Memo dt. 28.7.1993 was issued to the applicant. Vide letter dt. 2.2.1994, the applicant was informed that as he had not nominated any defence counsel before commencement of the enquiry and as the first sitting of the enquiry was already held on 3.1.1994, the applicant cannot be permitted to nominate the defence counsel as it is time barred. This OA was filed praying for a direction to the respondents to permit the applicant to engage a legal practitioner as the defence counsel in the disciplinary proceedings initiated against him.

2. Rule 9(13) of the Railway Servants (Discipline & Appeal) Rules, 1968 allows the delinquent employee to have the assistance of any Railway servant or Retired Railway servant and in regard to the latter i.e. in case the assistance of a retired Railway servant is sought, it is subject to such conditions as may be specified by the President. But the above rule does not indicate or even suggest that it is not open to the railway employee to engage a railway servant as the defence counsel after enquiry was commenced. Of course, Note-2 to Rule 9(13) states that the nomination of an assisting Railway servant or an official of a recognised Railway Trade Union shall be made within 20 days from the date of appointment of the enquiring authority. But even that note does not state that the delinquent employee forfeits his right to have the assistance of another railway servant if he has not nominated such a railway servant within 20 days from the date of commencement of enquiry. Further, the ambit or scope of the statutory provision cannot be limited by administrative instructions. Hence, we feel that

...3/-

the railway servant against whom the disciplinary proceedings are initiated does not forfeit his right to seek the assistance of a railway servant even if he had ^{not} nominated him within 20 days from the date of appointment of the enquiry authority.

3. The applicant is seeking a direction to the respondents to permit him (applicant) to engage a legal practitioner to defend him in the enquiry. It is now well settled that in appropriate cases a delinquent employee can be permitted to engage a legal practitioner in disciplinary proceedings against the employee. Note-1 to Rule-9(13) to the effect that the delinquent railway employee shall not engage a legal practitioner is contrary to the principles settled by the Supreme Court. But, the question as to whether this is a case where the applicant can be permitted to engage a legal practitioner is not considered by the concerned authority i.e. the disciplinary authority, and so the only direction that can be given is that if the applicant is going to make a written submission before the disciplinary authority by 15.5.1994 seeking permission to allow him to engage a legal practitioner to defend him, the case on the basis of the charge memo dt. 28.7.1993, the same has to be considered by the disciplinary authority in accordance with law.

4. The O.A. is ordered with the above direction.
No costs.

(R.Rangarajan)
Member(Admn.)

(V.Neeladri Rao)
Vice Chairman

Dated 15th April, 1994.
Dictated in the open court.

Deputy Registrar(J)CC

Grh.

To

1. The Assistant Operating Manager, O/o the DRM(T)Hyd(MG)Hyderabad.
2. The Traffic Inspector, S.C.Rly, Nizamabad(Dist.)
3. One copy to Mr.K.Sudhakar Reddy, Advocate, CAT.Hyd.
4. One copy to Mr.V.Bhimanna, ~~Adv.~~ SC. for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm

TYPED BY

Final Order

COMPALED BY

CHECKED BY

(A)

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. GORTHY : MEMBER (AD)

AND

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

AND

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

Dated: *21/5/94* - 1994

~~ORDER~~/JUDGMENT

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

in

O.A.No. *231/K4*

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.

Central Administrative Tribunal
DESPATCH

9 MAY 1994

HYDERABAD BENCH