

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A. 631/94

Date of decision: 19-08-1997

Between:

M.Radha Krishna .. Applicant.

And

1. The Chief Motive Power Engineer,
South Central Railway, Rail Nilayam,
Secunderabad - 371
2. Divisional Railway Manager,
South Central Railway, Hyderabad Division,
Sanchalan Bhavan Complex,
Secunderabad - 371.
3. Senior Divisional Mechanical Engineer,
S.C.Railway, Hyderabad Division,
Sanchalan Bhavan Complex,
Secunderabad - 371. .. Respondents.

Counsel for the Applicant : Sri. G.V.Subba Rao.

Counsel for the Respondents: Sri. C.V.Malla Reddy.

CORAM:

Hon'ble Sri. R.Rangarajan, Member (A)

Hon'ble Sri. B.S.Jai Parameshwar, Member (J)

JUDGEMENT

(Per Hon'ble Sri. R.Rangarajan, Member (A)).

Heard Sri. G.V.Subba Rao, learned counsel for the applicant and Sri. C.V.Malla Reddy, learned counsel for the respondents.

15

The applicant in this O.A., was removed from service for unauthorised absence from 13-07-1984 to 04-03-1985 by the Order dated 16-05-1986 (Annexure-III to the O.A.) The applicant submits that he has not received that order. It is also stated that he is not aware of any enquiry having been conducted. He also submits that he was not even informed of the date of enquiry also. The applicant further submits that even the Charge-sheet was not issued to him. But it is stated that the applicant was not mentally sound at that time which caused his unauthorised absence as admitted by the applicant himself. The applicant states that he submitted an appeal dated 3-7-1992 against the order of the Disciplinary Authority even without obtaining a copy of the order of the Disciplinary Authority. Subsequently, he submitted another appeal also on 12-10-1992 (page 12 of the O.A.). That appeal was disposed of by an order No.P.90/HYB/MRK/1773 dated 28-03-1994 (Page 9 of the OA). Against that order, the applicant filed a review petition dated 27-01-1994 (page 16 of the OA) addressed to the Chief Motive Power Engineer, Rail Nilayam, Secunderabad. That review petition was disposed of by

letter No.YF/DAR/EL/4/86 dated 30-03-1994 (page 10 of the O.A) by the reviewing authority rejecting his review petition.

This OA is filed challenging the order of the Appellate Authority dated 12-04-1993 and also the order of Reviewing Authority dated 30-03-1994 and for a consequential direction to reinstate him into service.

At the outset it has to be mentioned that the order of the Disciplinary Authority has not been challenged in this O.A. Even if the Appellate Order is set aside, the order of the Disciplinary Authority will still be in existence and hence the applicant submits that he has not received a copy of the Order of the Disciplinary Authority and may not get the desired result. Though the applicant submits that he has not received a copy of the Order of the Disciplinary Authority, he could have easily asked for it when he came to know that he had been removed from service and filed an appeal against that order of removal. But for reasons best known to the applicant, he did not take recourse to that action. We have perused the appeal. The appeal is in general nature asking for reinstatement without making proper contentions to challenge the orders of the Disciplinary Authority. The Appellate Authority has also disposed of that appeal in general terms. The appellate Authority has rejected the appeal submitted by the applicant as belated. The Reviewing Authority has also rejected his review petition stating that no valid grounds had been made out by the applicant in his review petition.

Be that as it may, we find that the applicant is a Fitter Chargeman "B" and he has a

large family. By depriving him of his job, it appears that he will be dire circumstances to maintain his large family. Hence, we are of the opinion that a sympathetic view has to be taken by the respondents in this case. It has also to be considered whether the unauthorised absence is a sufficient reason for imposing penalty of removal from service. The Tribunal cannot go into the quantum of punishment. Hence, it has to be left open to the concerned authorities to decide his case as sympathetically as possible.

To enable the above objective, we feel that the applicant should submit a detailed representation to the General Manager, South Central Railway requesting his reinstatement in service with a reduced penalty or at least as a fresh entrant, if for any reason he cannot be reinstated. While making such a representation, the applicant should use proper phrases and language. If such a representation is received from the applicant, the General Manager, South Central Railway should consider and dispose of the representation as indicated above within three months from the date of receipt of that representation.

With the above direction, the O.A., is disposed of, No costs.

CERTIFIED TO BE TRUE COPY
SD/-
COURT OFFICER
Central Administrative Tribunal
HYDERABAD BENCH.

//true copy//

DR

Review Application.

IN THE CENTRAL AD MINISTRATI VEE
Tribunal Hyderabad.

RA NO. /97

In
OA NO.631/94.

Between

M.Radhakrishna Applicant

And

The Chief Motive Power Engineer
& 2 others

Respondents.

INDEX.

Sl.no Date Particulars. Annexu re No.

1.	1-10-97	Memo to RA	I
2.	1-1097	RA	II
3.	22-9-97	EO's report	III
4.	19.8.97	of Judgment	IV

Filed by

G.VSUBBA Rao
Advocate
Plot No.96 Sikh Road.
Secunderabad.



Received
CVR Reddy
SC for RLG

21/10/97

21/10/97

31/10