

(Sec. Rule 114 .)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH, HYDERABAD .

~~M.A. No.~~ CP.

IN

O A T A

922

1998

5

..... V. Rama Swamy Applicant (S)

Versus

The General Manager

.....

..... S. K. Jeebab Respondent (S)

INDEX SHEET

Serial No .	Description of documents and dates.	Pages.
Docket orders.		182
Interim orders	20-2-98 } 19-3-98 }	50 to 55
Orders in M A(S)	114/98 30-4-98 }	56 to 60
Reply statement		40 to 49
Rejoinder		
Orders in (Final orders)	MA 114, 115, 116/98 } in O.A. 922/98 } 30-4-98 } 8-6-98 }	61 to 69

Certified that the file is complete in all respects.

Signature of Dealing Hand.

(In record section)

Signature of S.O.

DATE	OFFICE NOTE	ORDERS OF THE TRIBUNAL
<p>17.3.98</p>		<p>motion request re application Counsel v/ing 23.3.98</p> <p>JBSJP MJS</p> <p>ADDN MJS</p> <p>19-3-98.</p> <p><u>MA. 22 3/98.</u></p> <p>MA disposed of. Order vide MA sheets.</p> <p><u>MA_s 114, 115 & 116/98.</u></p> <p>Notice.</p> <p>list it after four- weeks.</p> <p>JR HBSJP MJS)</p> <p>HR MLB)</p> <p>30.4.98.</p> <p>MA 114/98, 115 and 116 are dismissed. (vide 118 separate order in MA 114/98. CA is dismissed as abated)</p> <p>Jai HBSJP 30.4.98 MJS</p> <p>WAK MJS</p> <p>SBS</p>

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

O.A. No. 922 of 1995

V. Rama Swamy Applicant (S)

VERSUS

The G.M. S.C. Dy Secy

Respondent (S)

DATE	OFFICE NOTE	ORDERS OF THE TRIBUNAL
7.8.95		<p>Admit</p> <p>HRRN M(A)</p> <p>HYNRT VC</p> <p>31-1-2-95</p> <p>It is stated that the applicant had ex and L.R is brought record and MA to effect has ^{to} be file hence the learned coun for the applicant request adjournment. List on 28/1/98. The applicant's Counsel should file a MA and move it in time.</p> <p>Je HRSVP 12 (S)</p> <p>HRRN M(A)</p>

Admit
M(A)
7.8.95

FOR ORDERS OF THE HON'BLE BENCH

M.A.NO.114, 115 and 116 of 1998

in

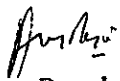
O.A.NO. 922 of 1995.

M.A.NO'S.114, 115 and 116 of 1998 filed for condonation of delay of 356 days in filing the application for bringing the LRs on record, and to set aside the abatement proceedings, and to permit the applicants to be brought on record respectively in O.A.No.922 of 1995, came up for hearing on 30.4.1998. After hearing the counsel for the applicants and the respondents MA for condonation of delay was dismissed. Accordingly MA.Nos. 115 and 116 of 1998 were ~~dismissed~~ also dismissed.

But in view of the dismissal of the MA for bringing the LRs on record the OA stands dismissed as abated. This fact was not included at the end of the original order dated 30.4.1998, passed in MAs.

Submitted for orders as to inclusion of "Dismissal of OA as abated" in the Original order dated 30.4.98 and accordingly whether the corrigendum may be issued to the parties.

Dated: 5.6.1998.


Deputy Registrar(Judl.)

FOR ORDERS OF THE HON'BLE BENCH

M.A.NO.114, 115 and 116 of 1998

in

O.A.NO, 922 of 1995.

M.A.NO'S,114, 115 and 116 of 1998 filed for condonation of delay of 356 days in filing the application for bringing the LRs on record and to set aside the abatement proceedings, and to permit the applicants to be brought on record respectively in O.A.No,922 of 1995 came up for hearing on 30.4.1998. After hearing the counsel for the applicants and the respondents MA for condonation of delay was dismissed. Accordingly MA.Nos. 115 and 116 of 1998 were ~~dismissed~~ also dismissed.

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Submitted for orders as to inclusion of "Dismissal of OA as abated" in the Original order dated 30.4.98 and accordingly whether the corrigendum may be issued to the parties.

Dated: 5.6.1998.

[Signature]
Deputy Registrar (Judl.)

MA 114, 115, 116
An office Note has been place before us today indicate the disposal of OA 922/95. MAs in this CA bearing No 114, 115 and 116 of 1998 were for bringing the LRs on record and to set aside the abatement proceedings were dismissed by an order dated 30-4-98. In view of that the CA also stands abated. As this was not clearly brought out in the order dated 30-4-98, it is now made clear that in view of the dismissal of the MAs, referred to above, the OA namely CA No 922/95 also stands abated. Suitable necessary corrigendum may be issued to all concerned by the Registrar.
Office note is thus disposed of.

HBSTP
M(J)

HRRN
M(A)

23/ For orders of the Hon'ble Bench

MANOs - 114, 115

and 116 of 1998

in
O.A. No. 922 of 1995

MANOs. 114; 115 ^{and} 116 of 1998 filed
for condonation of delay in filing the
application for bringing the LRA on
record ^{and} to set aside the statement
~~of the~~ proceedings, ~~of already filed~~
and to permit the Applicants to
be brought on record ~~in MANOs~~
~~of 1998~~ respectively in O.A. No 922
of 1995. Came up for hearing
on 30-4-1998. ~~and~~ After hearing
the Counsel for the Applicants and
the Respondents, MA for condonation
of delay was dismissed. Accordingly
MANOs. 115, and 116/98 were
also dismissed.

But in view of the dismissal of the
M.A. for ~~Condonation of Delay~~ ^{the} ~~that it is dismissed~~
~~of the CA~~ ^{that it is dismissed}
of abated ~~with~~ ^{that fact was not included}
of the original order dated 30-4-78,
~~in the last para in yesterday~~ ^{passed in May}

Submitted for orders as to
inclusion of ~~the result of the~~
~~CA that it is~~ "dismissed" as
abated" in the original order
dated 30-4-78 and accordingly
whether the Corrigendum may
be issued to the parties.

DR(J)

4/6/78

FOR ORDERS OF THE HON'BLE BENCH

M.A.NO.114, 115 and 116 of 1998

in

O.A.NO. 922 of 1995.

M.A.NO'S.114, 115 and 116 of 1998 filed for condonation of delay of 356 days in filing the application for bringing the LRs on record and to set aside the abatement proceedings, and to permit the applicants to be brought on record respectively in O.A.No.922 of 1995 came up for hearing on 30.4.1998. After hearing the counsel for the applicants and the respondents MA for condonation of delay was dismissed. Accordingly MA.Nos. 115 and 116 of 1998 were ~~dismissed~~ also dismissed.

But in view of the dismissal of the MA for bringing the LRs on record the OA stands dismissed as abated. This fact was not included at the end of the original order dated 30.4.1998, passed in MAs.

Submitted for orders as to inclusion of "Dismissal of OA as abated" in the Original order dated 30.4.98 and accordingly, whether the corrigendum may be issued to the parties.

Dated: 5.6.1998.

[Signature]
Deputy Registrar(Judl.)

8.6.1998. An office Note has been place before us today to indicate the disposal of OA 922/95. MAs in this OA bearing No 114, 115 and 116 of 1998 ~~were~~ for bringing the LRs on record and to set aside the abatement proceedings were dismissed by ~~an~~ order dated 30-4-98. In view of that the OA also stands abated. As this was not clearly brought out in the order dated 30-4-98, it is now made clear that in view of the dismissal of the MAs, referred to above, the OA namely OA No 922/95 also stands abated. Suitable ~~necessary~~ corrigendum may be issued to all concerned by the Registrar.

Office note is thus disposed of.

[Signature]
HRSJP
M(J)

[Signature]
HRRN
MCA)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD.

ORIGINAL APPLICATION No. 922 OF 1995

Shri V. Ramaswamy Applicant(s)

VERSUS

The City South Central Railway

Sec'bad and 2 other

Respondent(s)

The application has been submitted to the Tribunal by
by Shri N. Ramamohana Rao Advocate under
section 19 of the Administrative Tribunal Act, 1985 and the same
has been scrutinised with reference to the points mentioned in
the check list in the light of the provisions contained in the
Administrative Tribunal (procedure) Rules, 1987.

The application is on order and may be listed for admission

on

-8-95

Cy
11/8/95
Scrutiny Asst.

Amli
DEPUTY REGISTRAR (JUDL.)

10. Has the impugned orders Original/duly attested legible copy been filed ?
11. Have legible copies of the annexures duly attested been filed ?
12. Has the Index of documents been filed and pagination done properly ?
13. Has the applicant exhausted all available remedies ?
14. Has the declaration as required by item No.7 of Form I been made.
15. Have required number of envelopes (file size) bearing full address of the respondents been filed ?
16. (a) Whether the relief sought for, arise out of single cause of action ?
(b) Whether any interim relief is prayed for ?
17. In case an MA for condonation of delay is filed, is it supported by an affidavit of the applicant ?
18. Whether this case can be heard by Single Bench ?
19. Any other point ?
20. Result of the scrutiny with initial of the scrutiny clerk ?

Yes

Yes

Yes

Yes

Yes

Yes

Yes

May be filed

CS
1/8/95

CS
1/8
Scrutiny Asst.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

Dairy No. 2328/95

Report on the Scrutiny of Application

Presented by Mr. N. Ramamohana Rao Date of presentation 31/7/95
Applicant (S) V. Ramaswamy
Respondent (S) The G.M. Sec Rly. Secunderabad on 2 on
Nature of grievance Reduction of grade
No. of applicants 1 No. of Respondents 3

CLASSIFICATION

Subject (No.) Department Railways (No)

1. Is the application in the proper form ?
(Three complete sets in paper books form
in two compilations) Yes
2. Whether name, description and addresses
of all the parties been furnished in the
cause title ? Yes
3. (a) Has the application been duly signed
and verified ? Yes
(b) Have the copies been duly signed? Yes
(c) Have sufficient number of copies of
the application been filed ? Yes
4. Whether all the necessary parties are
impleaded. Yes
5. Whether English translation of documents
in a language other than English or Hindi
been filed ? -
6. Is the application on in time ? (See
Section 21). Yes
7. Has the Vakalatnama / Memo of Appear-
ance / authorisation been filed ? Yes
8. Is the application maintainable ? (u/s 2,
14, 18, or U.R. 8 etc) Yes
9. Is the application accompanied IPO/DD,
for Rs. 50/- ? Yes

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

I N D E X S H E E T

O.A.NO. 922 of 1995

CAUSE TITLE V. Rania Swamy

VERSUS

The G.M. Sec. Rly. Sec. Secy

Sl. NO.	Description of documents	Page NO.
1. 1.	Original Application	1 & 10
2.	Material Papers	11 & 34
3.	Vakalat	one
4.	Objection Sheet	—
5.	Spare Copies (Three)	
6.	Covers (Three)	

Reply statement filed by
M. D. Francis Paul
M. 7/8/95

checked
[Signature]

Reg:- To direct the respondents to restore the earlier grade of the applicant i.e. Rs 2000-3200.

Reduction of grade

Bench case

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADDITIONAL BENCH: AT RAILWAY HYDERABAD

O.A.NO. 922 OF 1995

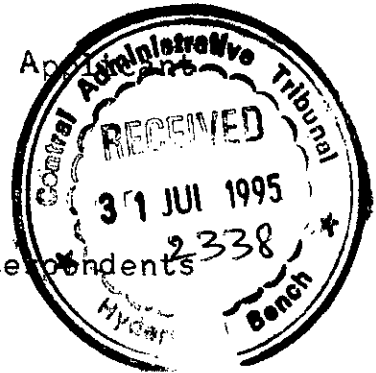
RAILWAY

Between:-

V. Ramaswamy.

And

Union of India, rep. by the General Manager, South Central Railway, Secunderabad, and 2 others.



CHRONOLOGICAL EVENTS

66

Sl.No.	Date	Description	Page Nos.
1.	15.6.1964.	The Applicant joined the Indian Railways as Commercial Clerk.	- 2 -
2.	27.6.1994.	The Applicant respectfully submitted that while matters stood thus, as the respondents recovered the alleged outstanding debit without any notice and that too in excess of the liability, the Applicant approached the dealing clerk in the office of the Senior Divisional Commercial Manager seeking to clarify the above aspects.	- 4 -
3.	27.1.1994.	The Applicant collected Rs.968 from the parties and remitted it in the Accounts Section.	- 4 -
4.	14. 12.4.1995.	The Applicant filed an Appeal.	- 7 -
5.	22.6.1995.	The Appeal was rejected the Addl. Divisional Railway Manager-II, South Central Railway, Secunderabad.	- 7 -
6.	30.9.1997.	The Applicant retirement.	- 7 -
7.	5.4.1995.	The Senior Divisional Commercial Manager, South Central Railway issued Corrigendum order reducing the period of penalty from 5 years to 2 years.	- 7 -

Hyderabad,

Dated: 31.7.1995.

Counsel for the Applicant.

Handwritten notes: 31/7/95, C. P. Rao, etc.

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADDITIONAL BENCH: AT
HYDERABAD

O.A.NO. 922 OF 1995

Between:-

V.Ramaswamy.

... Applicant

And

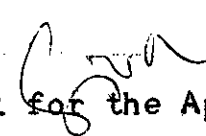
Union of India, rep. by the General Manager,
South Central Railway, Secunderabad,
and 2 others.

... Respondents

MATERIAL PAPERS: INDEX

Sl.No. of Annexure.	Description	Page Nos.
	Application	1 to 10
Annexure-1.	No.C/C/419/OS/AD/CHC/SNAG/94, Dated: 23.6.1994.	11
Annexure-2.	Representation of the Applicant, Dated: 27.6.1994.	12
Annexure-3.	DAR ENQUIRY REPORT IN THE VIGILANCE CASE AGAINST SHRI V.RAMASWAMY, CGSR/SNAG.	13
Annexure-4.	No.C/C/419/OS/Ad.Chg/SNAG/94, Dated: 4.8.1994.	14 to 15
Annexure-5.	No.C/C/419/OS/AD/Chg/94, Dated: 16.12.1994.	17 to 23
Annexure-6.	No.C/C/419/OS/AD/SNAG/94, Dated: 8-3-1995.	24
Annexure-7.	Corrigendum No.C/C/419/AD/Chg/SNAG/94, Dated: 5.4.1995.	25
Annexure-8.	Representation of the Applicant, Dated: 12.4.1995.	26
Annexure-9.	No.CP/535/2/2000, Dt. 31.5.1995.	27
Annexure-10.	Memorandum No.C/C/419/OS/AD/Chg/SNAG/94, Dated: 22.6.1995.	28
11	-11- pay Bills	29 & 30
12	-12- Under charges on Good and Live Stock Traffic Accounted	31 & 34

Hyderabad,
Dated: 21.7.1995.


Counsel for the Applicant.

Abhinand K.Shavili, Siva and P. Raghu Kumar, Advocates,
204-A, Brindavan Apartments, Niloufer Hospital Road, Red
Hills, Hyderabad-500 004.

2. PARTICULARS OF THE RESPONDENTS: Same as furnished
in the above Cause Title and the addresses for service of
all notices and processes on the above named respondents
are also the same as furnished in the Cause title.

3. PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION
HAS BEEN MADE :

Aggrieved by the orders of Respondent No.3 in rejecting
the appeal against the penalty of reduction of grade through
Order No.C/C/419/OS/AD/Chg/SNAG/94, dated 22-6-1995 and
consequent order of reversion through O.O.No.59/COMML/DRM/95,
dated 31-5-1995.

Subject in Brief:- On a charge of alleged slapping
of Commercial Inspector, the applicant was punished with
a reduction in grade.

4. JURISDICTION : The applicant hereby declare that
the subject matter against which he wants redressal is
well within the jurisdiction of this Honourable Tribunal
under Section 14 of the Administrative Tribunal Act, 1985.

5. LIMITATION : The applicant further hereby declare
that the application is well within the limitation period
as prescribed in Section 21 of the Administrative Tribunal
Act, 1985.

6. FACTS OF THE CASE :

(a) It is respectfully submitted that the applicant
joined the Indian Railways on 15-6-1964 as Commercial

clerk and subsequently promoted as Senior Commercial Clerk, Head Commercial Clerk, Commercial Supervisor and finally as Chief Goods Supervisor. All the above promotions were achieved by the applicant due to his sincere and dedicated service and there was never any occasion for any superior to comment upon him.

(b) It is respectfully submitted that in the Goods Section of the Railways, a peculiar practice is in vogue that is, when normally goods are booked, the booking station is supposed to check the quantity/weight of the goods and accordingly may fix the freight charge depending on the distance. When the goods are received at the respective station, the goods section is again supposed to re-check the quantity/weight of the goods and the distance ~~xxx~~ and accordingly collect the deficiency in the freight charges from the parties receiving the goods. If the concerned personnel of the goods section did not recheck and if there is any loss to the Railways due to the negligence of such personnel, the same is recovered from such personnel. Then, such personnel responsible for the loss are curiously supposed to collect the deficient freight charges from the parties who received the goods and deposit the same with accounts section. If the deficient freight charges are not collected by such personnel, then, the deficient amount is debited from the pay of such personnel.

(c) It is further respectfully submitted that certain consignments were booked from Siuri (West Bengal) during January 1993 to ^{Sanathnagar,} Secunderabad. The actual distance between the above two places is 1796 Kms. and freight charges were collected accordingly by the booking station and since no error was committed by the booking station, no further action

was taken at this end by the applicant and he accordingly delivered the goods to the parties without any attempt to collect the differential charges. But debit was raised against the applicant, the Accounts Branch on the ground that the distance between Siuri and Secunderabad is 1890 Kms and not 1796 Kms and therefore a debit of Rs.6,420/- was raised against the applicant representing the differential in the freight charges. Since some of the consignees are regular parties, the staff working in the Goods shed have been alerted to bring to their notice about the differential freight charges. Such consignees have paid up the charges on their next visits to the Goods shed and thus the applicant collected Rs.968 from the parties and remitted it in the Accounts section on 27-1-1994. A further sum of Rs.1288/- was also collected and was remitted on 02-02-1994, leaving a balance of Rs.4164/- as outstanding. However, to the utmost surprise and shock of the applicant, the Accounts branch recovered the balance of amount from the pay of the applicant, that is, Rs.1145/- in March, '94, Rs.1145/- in April, '94, Rs.1272/- in May, '94 and Rs.998/- in June, 1994. Thus it can be seen that a sum of Rs.396/- was recovered in excess after giving credit to the two remittances of Rs.968/- made on 27-1-94 and Rs.1288/- made on 2-2-1994.

(d) It is respectfully submitted that while matters stood thus, as the respondents recovered the alleged outstanding debit without any notice and that too in excess of the liability, the applicant approached the dealing clerk in the office of the Senior Divisional Commercial Manager on 27-6-1994 seeking to clarify the above aspects. In the meantime the Commercial Inspector, Sri K.Prasad came to the seat of the dealing clerk and having noticed the lapses on his part got unnerved and started abusing

the applicant and asked him to get out of the office. The above Commercial Inspector is well aware that he is far Junior in service to the applicant but yet he did not conduct himself properly and started resorting to objectionable language and issues. The applicant insisted upon steps to be taken immediately for paying back the excess recovery of Rs.396/-. There upon Sri Prasad has taken a serious view of the argument. Sensing that no useful purpose would be achieved at that and any longer, he threatened that he would be petitioning the higherups and saying so, the applicant walked out of the office.

(e) It is further respectfully submitted that Sri K. Prasad the Commercial Inspector having come to know of the lapses on his part and to get away from these lapses, being noticed by his superiors, as an after thought lodged a complaint with his superior that the applicant slapped him on 27-6-94 and also hurled abuses. Accordingly a charge Memo. dated 4-8-94 was issued imputing that the applicant committed misconduct and behaved in a manner unbecoming of a Railway servant on 27-6-1994 at about 12-05 hours in that he assaulted Sri K.Prasad.

(f) It is respectfully submitted that an enquiry was conducted wherein, the railway management produced three witnesses and the applicant produced one witness besides the applicant was also cross-examined by the enquiry Officer. It is pertinent to mention here that the Management did not appoint a presenting officer and therefore the Enquiry Officer himself acted and performed the duties of presenting Officer. This role played by enquiry officer is in direct violation of the Principles of Natural justice and fair play. The sense of impartiality and openness of mind cannot

be reasonably assumed till the end, from the Enquiry Officer if he were to lead the witness. The action of the Enquiry Officer in cross-examining the applicant is equally bad in law and violative of natural justice. It is pertinent to mention here the inconsistency in the evidence on record. Management witness Sri K.Prasad stated that the incident occurred around 3° clock in the afternoon on 27-6-1994, where as the other two management witnesses Sri Sabeer Hussain and Sri U.Satyam Babu stated that they didnot note the exact time bu the incident occurred in the forenoon where as the charge Memo. indicates that the incident occured at about 12-05 hours. The defence witness Sri P.G.Bharate stated that the applicant was with him approximately from 14.30 hours to 15.30 hours. Thus, it is amply clear that at the time of alleged slapping of Sri K.Prasad, as alleged to have been commissioned at 3° clock the applicant was with the defence witness and quite obviously the applicant could not have been present at both the places at the same time. Therefore, it is clear that it is case of mischief engineered by Sri K.Prasad along with his friendly staff with a view to sidetrack the real issue, that is the unauthorised recoveries effected from the pay of the Applicant even without notice and that too in excess of the alleged outstanding debit. The enquiry report does not speak much of the inconsistency in the time and infact the enquiry officer overlooked such an important factor being an interested person himself. After all he can not own such an error committed by the witnesses led by him.

(g) It is further respectfully submitted that the Dicipinary authority i.e. the Senior Divisional Commercial Manager, Secunderabad imposed a penalty of reduction from

(12)

the grade of Chief Goods Supervisor i.e. Rs.2000-3200 (RSRP) to the grade of Chief Goods Clerk i.e. Rs.1400-2300 (RSRP) fixing his pay at Rs.1800/- per month for a period of Five years with commulative effect through his ~~order of punishment~~ ~~he filed an appeal on 12-4-95 against the~~ Proceedings No. C/C/419/OS/AD/Chg/SNAG/94, dt.8-3-1995. Aggrived by this order of punishment he filed an appeal on 12-4-95 against the above punishment to the Additional Divisional Railway Manager-II, South Central Railway, Secunderabad, the same was rejected vide Memorandum No.C/C/419/OS/AO/Chg/SNAG/94, dated 22-6-95. The respondents also vide Office Order No.59/Comml/DRM/95, dated 31-5-95 reverted the applicant to grade Rs.1400-2300 (RSRP) and posted him as Chief Goods Clerk at Sanathnagar against higher grade vacancy of grade Rs.2000-3200 (RSRP). Thus, through these above proceedings, the applicant is now being made to serve under his juniors.

(h) It is further respectfully submitted that the respondent-3, the Disciplinary Authority first issued impunged proceedings No.C/C/419/OS/AD/Chg/SNAG/94, dated 8-3-95, imposing the penalty for a period of 5 years with cummulative effect but later on the objection of the Office that the same can not be implemented as the applicant is likely to retire on 30-09-1997, the the respondent No.3, issued corrigendum, dated 05-04-95 reducing the period of penalty from 5 years to 2 years. These proceedings were served on the applicant after he filed the Appeal. This also indicates that the disciplinary authority acted in absolute haste and without proper application of mind.

(i) It is respectfully submitted that the action of the respondents in imposing the penalty as well as rejecting his appeal is perverse and not based on the evidence on record. The respondents could not appreciate the defence

of this applicant that the complaint against him has been engineered by Sri K.Prasad, the Commercial Inspector. Both the enquiry officer and the disciplinary authority totally overlooked the positive evidence of the defence witness who stated that at the time of the alleged slapping by the applicant, he was present with the defence witness. Thus, seen from any angle the action of the respondents is arbitrary, perverse and illegal.

(j) It is further respectfully submitted that the amount recovered from the applicant amounting to Rs.4560/- excluding the Rs.2256/- collected by the applicant and deposited with the Accounts section is illegal. The actual distance between Siuri and Secunderabad is only 1796 Kms. and not 1890 kms as claimed by the respondents. Besides, no notice was served on the applicant before making the recoveries, this action of the respondents is illegal as it violates principles of Natural justice and accordingly the respondents should refund the amounts recovered from the pay of the applicant.

(k) It is respectfully submitted that the respondents 2 and 3 did not consider my date of retirement, i.e.30-9-1997 and therefore hardly little over 2 years of service is in balance. The balance of conveyance is also in the favour of the applicant and therefore the reversion has caused great hardship to the applicant and needs to be suspended.

(l) I further submit that Sri K.Prasad neither made any complaint to the Civil Police nor the Railway Protection Force, and therefore his action in complaining to the superiors is only an act of desperate person trying avoid his lapses.

14

7. REMEDIES EXHAUSTED : The applicant hereby declares that in the circumstances stated supra, they have no other effective alternative remedy except to invoke the jurisdiction of the Honourable Tribunal seeking appropriate redressal for his grievance.

8. MATTERS NOT FILED/PENDING : The applicant hereby further declares that he has not filed any Suit, Writ Petition or Application before any Court of law, nor is there any Suit/Writ Petition/Application pending before any Court of law or Authority for the reliefs prayed for in this Original Application.

9. MAIN PRAYER : Hence, it is humbly prayed in the interest of justice that this Hon'ble Tribunal may be pleased

(a) to call for the records pertaining to the impugned order No.C/C/419/OS/AD/Chg/SNAG/94, dated 22-6-95 of the 2nd respondent and also No.C/C/419/OS/AD/Chg/SNAG/94, dated 5-4-95 of the 3rd respondent and setaside the same as arbitrary, perverse, contrary of law and is passed in violation of the Principles of natural justice.

(b) direct the respondents to refund the recovered amount from the applicant.

(c) consequently direct the respondents to restore the earlier grade of the applicant i.e.Rs.2000-3200 (RSRP) and pay all the arrears and consequential benefits treating that the applicant has never been reverted or reduced in the grade or pass such other order or orders as this Hon'ble Tribunal may deem fit.

10 INTERIM RELIEF : It is also humbly prayed in the interest of justice that the Honourable Tribunal may be pleased to suspend the operation of the proceedings No: C/C/419/OS/AD/Chg/SNAG/94, dt.5-4-95 issued by Respondent No.3 as the balance of convenience is in favour of the applicant as he is to retire on 30-09-1997 or pass ~~such~~ such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

11.

12. PARTICULARS OF THE POSTAL ORDER/DEMAND DRAFT :

- (a) Name of the Post Office/Bank : *Ca 70*
(b) No, of Postal Order/D.D. : *807973189*
(c) Date of the Postal Order/D.D.: *31-7-95*
(d) Value : Rs. *80/- A*

13. INDEX : Enclosed.

~~U.P.S. D.D. / Remover~~

15. ENCLOSURES : Index, Postal Order, Vakalat, Annexures and covers.

V E R I F I C A T I O N

I, V.Rama Swamy, S/o Vellaiyan, aged about 56 years, resident of Khairatabad, Hyderabad working as Chief Goods Supervisor, Near Goods Complex, Sanathnagar, Hyderabad, do hereby solemnly and sincerely affirm and state on oath that the contents herein above are true to the best of my knowledge and belief and that I have not suppressed any material facts therein.

Hence verified on this
the 17th day of June,
1995 at Hyderabad.

S. Rama Swamy
COUNSEL FOR THE APPLICANT.

V. Rama Swamy
SIGNATURE OF THE APPLICANT.

HYDERABAD:

DATE:17-07-1995.

South Central Railway

Divisional Office,
2nd Floor-Comml. Branch,
Sanchalan Bhavan-Secunderabad.

No.C/C/419/OS/AD/CHC/SNAG/94, Dated: 23.6.1994.

To

CGSR/SNAG.

Sub:- Goods/Coaching/Admitted debits outstanding
at SNAG against Sri Ramaswamy CGSR/SNAG-Reg.

....

A sum of Rs.1,998/- has been recovered Shri Ramaswamy
CGSR/SNAG through the salary bill in the month of June-94
in respect of admitted Debits outstanding against the employee.

Please therefore, on the authority of this letter take
credit for Rs.1,998/- (One thousand Nine hundred and Ninety
Eight only) enclosing a copy of this letter to the
Balance Sheet in support of Credit taken. The items
listed should be dropped from the outstanding list of your
station.

Sd/- x x x x x x x x x x x x x

For Divisional Railway Manager/C
Secunderabad.

// True Copy //

11

16

To

Sri DEM/ BG/SC,
~~Sec~~ SC Railway.

Secunderabad,
27.6.1994.

Sub:- Excess recovery of O/S in June Salary bill.

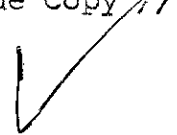
Respected Sir,

As per out standing list of Feb.1994 an amount of Rs.4164/- was admitted against me. Out of his amount Rs.3562/- is recovered from March, April and May Salary bills. So Rs.602/- only is admitted against me in the month of June, 1994. But I came to know through balance Sheet Advese Rs.1998 is being recovered from the salary bill of June, 1994. So I request you to kindly stop recovery of Rs.1998 and recover Rs.602/- only in the salary bill of June, 1994.

Thanking you Sri,

Yours faithfully,
Ramaswamy,
Dt.27.6.1994.

// True Copy //



13 18

DAR ENQUIRY REPORT IN THE VIGILANCE CASE AGAINST SHRI
V.RAMASWAMY, CGSR/SNAG.

Name of the charges Employee	Shri V.Ramaswamy CGSR/SNAG.
Name of the Defence Counsel.	Shri V.P.R.Pillai.
Name of the Enquiry Officer.	Shri T.Venkat Rao, ACM(Catg.)SC.

BRIEF HISTORY OF THE CASE:-

Shri V.Ramaswamy, CGSR/SNAG was issued with a Chargesheet for Major penalty vide charge Memorandum No.C.C.No.419.OS. AD.Chg.94, Dt.4.8.94 for the following charges.

That the said Shri V.Ramaswamy, CGSR/SNAG committed serious misconduct and behaved in a manner unbecoming of a Railway Servant in that on 27.6.1994 at 12.05 hours, he has assaulted Shri K.Prasad, SCI/SC who was on duty in Sr.DCM's Office/ Secunderabad.

He thus violated Rule 3 I (ii) (iii) of RS(Conduct) Rules 1966. Considering the explanation submitted by the employee, Sr.DCM/SC, the Disciplinary Authority, has ordered DAR enquiry nominating Shri T.Venkat Rao, ACM (Catg.)/Secunderabad as Enquiry Officer.

The following documents were taken into accounts during the enquiry.

- (i) Complaint of Shri K.Prasad, CCI/SC Dt.27.6.1994.

ASSESSMENT OF EVIDENCE AND REASONS FOR EVIDENCE.

The three prosecution witnesses viz., S/Shri U.Satyam Babu, Shed Sabir Hussain, K.Prasad ~~the~~ and the delinquent were examined. All the three witnessess vide their answer to question Nos. 10,16 and 24 have stated that Shri V.Ramaswamy, CGSR/SNAG has slapped Sri K.Prasad, CCI/SC. However the Defence Counsel during the enquiry and in his Defence Statement stated that Shri V.Ramaswamy has not slapped Sri K.Prasad on 27.6.1994 at 15.00 hours (3:0 Clock) as the delinquent employee was with Shri Bharate, the Defence witness between 14.30 hours to 15.30 hours only Sri K.Prasad, vide his answer to Q.No.11 has stated that Shri V.Ramaswamy has slapped him at 15.00 hours but the remaining two witnesses viz. S/Shri Syed Sabir Hussain and U.Satyam Babu have stated that the incident has taken place in the forenoon. Shri K.Prasad, also in the complaint addressed to Sr.DCM/SC has mentioned the time of incidence as 12.05 hours. Though there is a difference in the time of incidence mentioned by Shri Prasad during the enquiry, it is ~~is~~ a fact that Shri V.Ramaswamy, slapped Sri K.Prasad due to unexpected act of Sri V.Ramaswamy, on 27.6.1994 Shri K.Prasad was in a very disturbed state, and he was not in a position to rember the exact time of incidence, but there are corroborative evidence available on the record both oral and documentary which establishes that the incident look place at 12.5 hours, therefore the charges get substantiated.

F I N D I N G S:- The charge that Shri V.Ramaswamy,CGSR/SNAG has committed serious misconduct and behaved in a manner unbecoming of a Railway Servant in that on 27.6.9994 at 12.05 hours, he has assaulted Sri K.Prasad, SCI/SC who was on duty in Sr.DCM's Office/Secunderabad is proved.

Sd/- x x x x x x x x
(T.Venkata Rao)
Enquiry Officer.

// True Copy //

14 (19)

STANDARS FORM-5
(RULE 9 OF RAILWAY SERVANTS(DISCIPLINE AND APPEAL RULES 1968))

SOUTH CENTRAL RAILWAY

Divisional Office,
Comml. Branch-2nd Floor,
Sanchalan Bhavan,
Secunderabad.

No.C/C/419/DS/Ad.Chg/SNAG/94

Date: 4-8-1994.

M E M O R A N D U M

The undersigned propose(s) to hold an enquiry against Shri V.Ramaswamy, CGSR/SNAG under Rule 9 of the ~~Rikwa~~ Railway Servant (Discipline & Appeal) Rules 1968. The substance of the imputations of misconduct or misbehaviour in respect of which the ~~enquiry~~ enquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of imputations of misconduct or misbehaviour in support of each article of charge is enclosed.(Annexure-II) A list of all the documents by which and a list of witnesses by whom, the article of charge are proposed to be sustained are also enclosed (Annexure-III & IV).

2. He is further informed that he may, if he so desires to take the assistance of any other Railway Servant/an official of Railway Trade Union (who satisfied the requirements of Rule 9 (13) of the Railway servants (Discipline and Appeal) Rules 1968 and Note 1 and/or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Enquiry Authority in the event of an oral Enquiry being held. For this purpose he should nominate one or more persons in order of preference, before nominating the assisting Railway Servant(s) or Railway Trade Union Officials. He should obtain an undertaking from the nominee(s) that he is willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case(s), if any in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned along with the nomination.

3. He is hereby directed to submit to the undersigned a written statement of his defence within 10 days of receipt of this Memorandum, if he does not require to inspect any documents for the preparation of his defence and within 18 days after completion of inspection of his documents, if he desires to inspect documents, and also.

(a) to state whether he wishes to be heard in person
and

(b) to furnish the names and addresses of the witnesses if any whom he wishes to call in support of ~~his~~ his defence.

4. He is informed that an inquiry will be held only in respect of these, articles of charge as are not admitted. He should therefore, specifically admit or/deny each article of charge.

5. He is further informed that if he does not submit his written statement of Defence within the period specified in para-4 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 of the orders/directions issued in pursuance of the said rule, the enquiry authority may hold the enquiry exparte.

6. The attention of Sri V.Ramaswamy, CGSR/SNAG is invited to Rule 20 of the Railway Services (Conduct) Rules, 1966 under which no Railway Servant shall bring or attempt to bring any political, or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that he is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (Conduct) Rules.

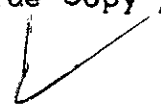
7. The receipt of this Memorandum may be acknowledged.

Encl:-One

Signature:-
Name and Designation
of Disciplinary
Authority.

Sd/- x x x x x x
(Dr.T.R.K.Rao)
Sr.DCM/SC.

// True Copy //



Annexure-I

Statement of articles of charges framed against Sri V. Ramaswamy, CGSR/SNAG.

...

That the said Sri V. Ramaswamy CGSR/SNAG committed ~~xxx~~ misconduct and behaved in a manner unbecoming of a Railway servant in that on 27.6.1994 at about 12.5.19 hours, he has assaulted Sri K. Prasad, SCI/Secunderabad, who was on duty in Sr. DGM's office/Secunderabad.

He thus violated Rule-3 I(ii)(iii) of RS(Conduct) Rules 1966.

Annexure-II

Statement of imputations of misconduct or misbehaviour in support of the article of charges framed against Sri V. Ramaswamy CGSR/SNAG.

...

Shri V. Ramaswamy, while working as Chief Goods Supervisor at Sanathnagar new Goods complex during June, 1994 has committed serious misconduct and behaved in a manner unbecoming of a Railway servant in that he has come to Sr. DGM's Office/Secunderabad at 12.05 hours and contacted Sri K. Prasad regarding recovery of admitted debits which is being recovered from his salary. While Sri K. Prasad was explaining to him about the actual amount of admitted debits outstanding against him and the recoveries being done from his salary, Sri V. Ramaswamy has lost his temper and assaulted Sri K. Prasad.

He thus violated Rule 3 I (ii)(iii) of RS(Conduct) Rules 1966.

Annexure-III

List of documents by which the article of charges framed against Shri V. Ramaswamy, CGSR/SNAG are proposed to be sustained.

1. Complaint of Sri K. Prasad, SCI/SC, Dated: 27.6.1994.

Annexure-IV

List of witnesses by whom the article of charges framed against Shri V. Ramaswamy, CGSR/SNAG are proposed to be sustained.

1. Shri K. Prasad, SCI/Secunderabad.
2. Shri U. Satyam Babu, OS/Sr. DGM's Office/SC.
3. Shri Syed Saber Hussain, Head Clerk, Sr. DCM's Office/SC.

Sd/- x x x x x x x
Sr. Divl. Comml. Manager,
Secunderabad.

// True Copy //

✓

17 (22)

Secunderabad
Date: 16.12.94

No.C/C/419/OS/AD/Chg/94

DAR ENQUIRY AGAINST SHRI V.RAMASWAMY, CGSR/SNAG.

PRESENT:

- | | | |
|-----------------------|-----|-----------------------------|
| 1. S/Shri V.Ramaswamy | ... | Charged Employee |
| 2. V.P.R.Pillai | ... | Defence Counsel |
| 3. K.R.Prasad | ... | SCI/SC |
| 4. Syed Sabir Hussain | ... | Witness .. SCI/SC |
| 5. U.Satyan Babu | ... | Witness .. OS/Sr.DCS/SC. |
| 6. T.Venkat Rao | ... | ADM/Catg/SC Enquiry Officer |

Q.1) You are issued with Major penalty charge sheet dt 29.6.94 are you aware ?

Ans. Yes.

Q.2) Have you gone through the articles of charges framed in the Memo ?

Ans. Yes.

Q.3) You have been charged that you have ~~unbecoming of a~~ ^{unbecoming of a} Rly.servant duly assaulting Shri K.K.Prasad, SCI of this Office ? Do you agree ?

Ans I never became non-Rly.servant and I also never assaulted Shri Prasad.

Q.4) Witnesses as mentioned in Annexure-IV vide Charge sheet that U.Satyan Babu, ~~and Syed~~ ^{and Syed} OS and Syed Sabeer Hussain HC of this Office, witnessed the assaulting, how you deny the charges ?

Ans You may kindly examine the witnesses when you come to know about the fact.

Q.5) On 27.6.94 where were you ?

Ans I was availing my rest and also attended Office.

Q.6) In what connection you have attended the Office ? And to whom you have seen ?

Ans There were ~~not~~ ^{some} irregularities regarding recovery of my salary in this connection I have attended the Office. I have seen APO(T) DCM.

Q.7) Others than Officers have you not seen ~~any~~ ^{any} staff in the Office ?

Ans There were many staff available in the Office and I have not met anybody particularly.

V.Ramaswamy
(Charged Employee)

V.P.R.Pillai
(Defence Counsel)

T.Venkat Rao
(Enquiry Officer)

K.Prasad
W.P.

17 (22)

Secunderabad
Date: 16.12.94

No.C/C/419/OS/AD/Chg/94

DAR ENQUIRY AGAINST SHRI V.RAMASWAMY, CGSR/SNAG.

PRESENT:

1. S/Shri V.Ramaswamy	...	Charged Employee
3. K.R.Prabha	...	Defence Counsel
4. Syed Sabir Hussain	...	Witness .. DCM/SC
5. U.Satyan Babu	...	Witness .. OS/Sr.DCS/SC.
6. T.Venkat Rao	...	ACM/Catg/SC Enquiry Officer

Q.1) You are issued with Major penalty charge sheet dt 29.6.94 are you aware ?

Ans. Yes.

Q.2) Have you gone through the articles of charges framed in the Memo ?

Ans. Yes.

Q.3) You have been charged that you have ~~unbecomingly~~ unbecomingly of a Rly.servant duly assaulting Shri K.K.Prasad, SCI of this Office ? Do you agree ?

Ans I never became non-Rly.servant and I also never assaulted Shri Prasad.

Q.4) Witnesses as mentioned in Annexure-IV vide Charge sheet that U.Satyan Babu, ~~and Syed~~ OS and Syed Sabir Hussain HC of this Office, witnessed the assaulting, how you deny the charges ?

Ans You may kindly examine the witnesses when you come to know about the fact.

Q.5) On 27.6.94 where were you ?

Ans I was availing my rest and also attended Office.

Q.6) In what connection you have attended the Office ? And to whom you have seen ?

Ans There were ~~not~~ irregularities regarding recovery of my salary in this connection I have attended the Office. I have seen APO(T) DCM.

Q.7) Others than Officers have you not seen anybody staff in the Office ?

Ans There were many staff available in the Office and I have not met anybody particularly.

V.Ramaswamy
(Charged Employee)

K.R.Prabha
(Defence Counsel)

T.Venkat Rao
(Enquiry Officer)

K.Prasad
10/12

18 (23)

Q.8) While giving the answer to Q.No.6 you have mentioned that you have seen only APO(T) and DCM. Do you aware that Shri K.K Prasad, SCI is delegated to look after the Outstanding i.e clearance of Admitted debts if yes, why you have not consulted Shri K.K.Prasad about the irregularities as mentioned by you ?

Ans I am not aware that Shri Prasad is entrusted with the work of outstanding dues, however I was meeting each and everybody in order to wrap up the irregularities.

Q.9) Vide Annexure 3 of the Memorandum that Shri K.K.Prasad, SCI stated in his report that you have approached with regard to information about the deduction of outstanding from the salary bill and while discussing you lost your temper and slapped him, why it has happened and how it has happened ?

Ans I am not aware of the complaint made by Shri Prasad, before serving the Memorandum to me if it is stated in his complaint that I approached him to discuss about the outstandings, there is no question of losing temper while discussing about the outstandings. It is not correct to say that I have slapped him.

EXAMINATION OF THE WITNESSES:

Q.10) (Shri K.K.Prasad, SCI/Sr.DCM's Office) you have given a report on 27.6.94 to the Sr.DCM that Shri G.Rameswamy, CEB/SNAG approached you with regard to information about the deduction of outstandings dues and deducted from his salary bills while discussing you have stated that he used filthy language and slapped you, Is it fact ?

Ans It is fact and the complaint is the outcome of the incident.

Q.11) Shri G.Rameswamy while examining you he denied the charges as you agree and how you will substantiate ?

Ans The incident occurred around 3.00 clock in the Evening 27.6.94 in front of OS/Table, and all the staff members witnessed the incident.

Q.12) You have mentioned in the question above that all the staff have witnessed but why only two witnesses have witnessed ?

Ans Since these two witnesses are close by and they have followed the discussions.

Rameswamy
(Charged Employee)

[Signature]
(Defence Counsel)

..3/-
[Signature]
(E.O)

(Witness)

[Signature]

CROSS EXAMINATION BY THE D.C

Q.13) Do you accept that there were irregular recoveries from Mr. Ramaswamy's salary ?

Ans It is a practice to recover the admitted debts lying against individuals uncleared for a considerable period. As such as per the instructions of Sr.DCM the recoveries were initiated from the salary bills of Sri V. Ramaswamy. I am not aware whether these recoveries were made by Sr.DPO as advised by Sr.DCM.

Q.14) Did you advise the personal branch to recover a sum of Rs 1000/- and subsequently advised them to recover only a sum of Rs 990/- ?

Ans The recoveries and necessary credited advices to the Stations is done by Office staff and not by me hence I am not coming in the picture.

Q.15) Where you available in the Office from Morning 10hrs to afternoon 3.00 clock ?

Ans Yes, I am available in the Office ^{Right} from 9.15am onwards.

EXAMINATION OF WITNESS BY E.O (WIT: Sabar Hussain)

Q.16) Shri K.K. Prasad SCI of this Office submitted a report to Sr.DCM/ SC on 27.6.94 stating that Shri V. Ramaswamy, CCSR/SNAG has used filthy language and slapped him and you were one of the witnesses, Do you agree with this ? And what else you have witnessed ?

Ans In respect of using filthy language by Mr. Ramaswamy the argument was going between K. Prasad and him in telugu which I do not know, however I have seen Mr. Swamy slapping Mr. Prasad.

Q.17) Where he was slapped and at what time the incident took place ?

Ans Exact time I do not know it happened in the Office Main Hall.

CROSS EXAMINATION BY D.C

Q.18) While answering Q.No.11 Shri Prasad stated that the incident took place at 3.00hrs in the evening, are you a witness to this ?

Ans As stated earlier I do not know the exact time

Q.19) Can you say the incident took place in the Afternoon or Forenoon ?

Ans It took place in the Forenoon.

Ramaswamy
(Charged Employee)

Sabar Hussain
(Defence Counsel)

S. Rao
(Enquiry Officer)

Ramaswamy
16/12

20 (25)

EXAMINATION OF WITNESS BY E.O (Witness: Shri U. Satyam Babu DS/SC)

Q.No.20) Shri K.K.Prasad, SCI of this Office submitted a report to Sz.DCM/SC on 27.6.94 stating that Shri V.Ramaswamy CGSR/SNAG has used filthy language and slapped him and you were one of the witnesses, Do you agree with this? And what you have witnessed?

Ans Shri V.Ramaswamy was in angry mood in connection with the recovery of admitted bills against him and there was argument between Mr.Ramaswamy and Shri K.K.Prasad, since Prasad deals the subject, after prolonged argument Mr.Ramaswamy slapped him.

Q.No.21) Where he was slapped and at what time the incident took place?

Ans Exact time I have not noted (but I can say it is in forenoon) it took in the Main hall of the Office.

CROSS EXAMINATION BY THE D.C

Q.No.22) On 27.6.94 you were deputed to attend Rail Nilayam from 12.00hrs to 16.00hrs, Is it a fact?

Ans No, it is not.

Q.No.23) On 27.6.94 you were with SCM/Genl in Rail Nilayam from 12.00hrs to 15.00hrs, Are you denying the fact?

Ans I am denying the fact.

Q.No.24) You have stated that the incident took place just in front of your table, did you try to make them understand about the situation, when this was causing a nuisance in the Office?

Ans Generally the staff were attending Office in connection with various Office matters they will be discussing with the concerned clerks/staff, I thought that the argument was regarding the Office work and suddenly this act (slapping) this incident taken place, afterwards I asked Mr.Ramaswamy to remain in the Office and he was with me till 10.00hrs and taken permission to leave Office.

Q.No.25) Was there any argument between Mr.Ramaswamy & Mr.Prasad?

Ans Yes, there was argument between them before the incident took place.

Q.No.26) Is Mr.Prasad is provided with a seat in the Main Hall in front of your Table?

Ans No, but being an outstanding Inspector he used to come to the concerned dealer for clearance of O/Standing debts and for taking upto date information, on the subject matter.

K.Prasad
16/10

Ramaswamy
(CHARGED EMPLOYEE)

[Signature]

[Signature]
(DEFENCE COUNSEL)

[Signature]
(ENQUIRY OFFICER)

[Signature]

Q.No.26) Is it a fact that Mr.Ramaswamy was discussing with the dealer of the outstanding when Mr.Prasad came to Main hall ?

Ans Mr.Prasad and Mr.Ramaswamy were arguing near the concerned dealer's table.

Q.No.27) Is the dealer of the Outstanding is provided with a table in front of your table ?

Ans The dealer was provided with a table in the Main hall ~~which is in front of my table~~ in front row which is also nearer to me.

Q.No.28) Can you say in what language the argument was going on between Mr.Ramaswamy and Shri K.Prasad ?

Ans That is in regional language(TELUGU).

Q.No.29) While answering Q.No.24 you have stated that the Office matters were discussing with the concerned Clerk/staff, where the incident has take place near the concerned clerk/Staff or in front of your table ?

Ans I have already stated that the concerned dealing clerks table is also nearer to me in the front row of the Office

Q.No.30) Kindly understand the difference ~~the~~ Just in front and a side of a front row, please state where the incident has taken just in front of your table or nearer to the dealer ?

Ans Infact the dealer's table is provided slightly in front of my table.

Q.No.31) When there was an argument in the Office as DS ~~why~~ why you have not interferred and for how much time the argument was going on ?

Ans I have ^{not} noted the time of argument between them .

Q.No.32) When the argument was going on nearer to our table of the dealer of the outstanding why the dealer has not become ~~the~~ the witness ?

Ans Not only the dealer the entire Office(those who were available on the seats on that day were the witnesses of the incident(slapping)).

Q.No.33) In the charge sheet no where it is mentioned it is happened in front of all the staff and only you and Sri Syed Sabeer Hussain are made witness. The charge sheet is also prepared in the Sr.DEM Office and in case if there are more witnesses, why it is not mentioned ? My seat and Sri Syed Sabeer Hussains seats are nearer to the place where the incident took place as such we were taken as witnesses, duly minimising the No.of staff for witness.

Ans

(Charged Employee) (Defence Counsel) (Enquiry Officer)

72500
14/11
[Signature]
(U.SATYANARAYAN)
Witness.

[Signature]
[Signature]
[Signature]

22-27

161

D.C With this the Cross examination by Defence counsel concluded, and Defence counsel requested for permission to produce Defence Witness and Shri R.G. Barate, Sr. PC/HYD was mentioned as Defence Witness.

E.O Permitted and witness to be produced on 17.12.94 at 10.30hrs in ACM's Office.

Barate
16/12

[Signature]
(Defence Counsel)

(Enquiry Officer)

[Signature]

Secunderabad,
Date: 17.12.94.

PRESENTS/Shri

- | | | | |
|-----------------|-----|-------------|------------------|
| 1. T.Venkat Rao | ... | ACM/Catg/SC | Enquiry Officer |
| 2. V.P.R.Pillai | ... | ECRC/SC | Defence Counsel |
| 3. V.Ramaswamy | ... | CGR/SNAG | Charged Employee |
| 4. R.G.Bharate | ... | Sr.PC/HYB | Defence Witness |

Examination of Defence Witness:

Q.No.(34) Do you know the particulars of the charges framed against Shri V.Ramaswamy ?

Ans I am not aware of the charges.

Q.No.(35) Defence Counsel requested you to call you as a Witness in what connection would you explain ?

Ans On 27.6.94 Mr.V.Ramaswamy had approached me in the Union Office to represent to the Administration to refund the excess recovered amount towards the Admitted debits from him I came to know that Shri Ramaswamy was charged that he attended Office at 15.00hrs on 27.6.94. In fact Shri V.Ramaswamy was with me of approximately from 14.30hrs to 15.30hrs in the Union Office to represent the case. Therefore to establish the presence of Shri V.Ramaswamy in the Union Office the Defence Counsel has requested to call me as Witness. I along with the D/C was in the Union Office on 27.6.94 from 12.00hrs to 16.00hrs.

Q.No(36) Do you aware that Shri V.Ramaswamy is working at SNAG, is the SNAG will come under your jurisdiction if not why Ramaswamy has represented you in regard to the irregular recoveries, is he given any written representation to you ?

Ans As regards the Comml.Branch of the SCRMU for which I am the chairman the jurisdiction is all Comml.Staff of SC/HYB and SNF including SNAG. Therefore Mr. Ramaswamy has approached me, unless it require he will not take in writing for small cases like refund of excess recovery etc. On receipt of the verbal representation we have represented the matter to APQ/T and he has processed for the excess refund of the amount but the same is not arranged till date.

Q.No(37) Is Shri V.Ramaswamy, was available with you between 12.00hrs to 14.30hrs, if not have you seen him anywhere ?

Ans No, I have not seen him, he was not available with me.

(Charged Employee)

(Defence Counsel)

(Enquiry Officer)

(D.Witness)

SOUTH CENTRAL RAILWAY

OFFICE OF THE
DIVL.RLY.MANAGER/
Comml.Branch/Secunderabad.

No.C/C/419/OS/AD/Chg/SNAG/94,

Dt.8.3.1995.

ORDER

I have carefully gone through the enquiry proceedings, report, defence note and the representation submitted by the employee. Assault of the staff in such intemperate and rude manner is highly unbecoming of a railway servant and witnesses have also clearly stated that the charged employee has assaulted the Commercial Inspector on duty. The charge was proved in the enquiry also. I have therefore decided to impose on him the penalty of reduction of grade. Accordingly he is reverted from the grade of CGSR i.e., Rs. 2000-3200 (RSRP) to the grade of CGC i.e., Rs. 1400-2300 (RSRP) fixing his pay at Rs. 1800/- p.m. for a period of five years with cumulative effect.

Under Rule 18 to 20 an appeal against these orders lies to ADRM-II/SC provided:-

- 1) The appeal is submitted through proper channel within 45 days from the date he receives these orders and
- 2) the appeal does not contain any improper or disrespectful language.

Please acknowledge receipt.

Sd/- x x x x x x x x
(Dr.T.R.K.Rao)
Sr.DCM/SC.

Disciplinary Authority.

Shri V.Ramaswamy,
CGSR/SNAG.

(Through CGSR/I/SNAG)

// True Copy //

SOUTH CENTRAL RAILWAY

Office of the
Divl.Rly.Manager
Comml.Branch/Secunderabad.

No.C/C/419/S/AD/Chg/SNAG/94, Dt.5.4.1995.

CORRIGENDUM

Further to this office penalty order of even no.
dated 8.3.1995, the first para may be read as under.

I have carefully gone through the enquiry proceedings report, defence note and the representation submitted by the employee. Assault of the staff in such intemperate and rude manner is highly unbecoming of a railway servant and witnesses have also ~~xxxx~~ clearly stated that the charged employee has assaulted the commercial inspector on duty. The charge was proved in the enquiry also. I have therefore decided to impose ~~xx~~ on him the penalty of reduction of grade. Accordingly he is reverted from the grade of CGSR-i.e., Rs.2000-3200 (RSRP) to the grade of CGC i.e. Rs. 1400-2300 (RSRP), fixing his pay at Rs.1800/- P.M. for a period of two years with cumulative effect.

Please acknowledge receipt.

Sd/- x x x x x x x x x x
(Dr.T.R.K.Rao)
Sr.DCM/SC.

Disciplinary Authority.

Shri V.Ramaswamy.

True Copy //



25-30

To
The Addl. Divisional Railway Manager/II,
South Central Railway, Secunderabad.

THROUGH PROPER CHANNEL

Respected Sir,

Sub:- Appeal against imposition of Penalty.
Ref:- C/C/419/OS/AD/Chg/SNAG/94, Dt. 8.3.1995.

I was issued with a charge memorandum that I slapped Sri K. Prasad SCI/SC on 27.6.1994 at 12.05 hrs. An enquiry was conducted on 16.12.1994. The enquiry officer had given his findings I preferred an appeal on the findings as the findings were biased and one sided.

I am forced to make this statement because in any case of such nature the timings of the incident is the most important factor. Both the witness S/Sri. Satyam Babu or Shabir Hussain were not able to say the timings they had simply stated that the incident took place during "forenoon" while the employee whom I said to have slapped had stated that the incident took place at 15.00 hrs. This itself is contradictory. Further on 27.6.1994, Sri K. Prasad had given a complaint quoting time minute to minute that is at 12.05 hrs. But in the enquiry he had stated that the alleged incident took place at 15.00 hrs in the evening. The enquiry officer had concluded that Sri. Prasad was in disturbed stage on 27.6.94 though the employee had not stated the same. If such a incident took place, on that day he can be in disturbed condition (it is limited to the day of occurrence only) but not on the day of enquiry i.e., at a distant date. The enquiry officer had not taken these factors into consideration but simply stated that the charges are proved which clearly shows that he is biased and one sided.

Based on the findings which are not impartial i.e., they are one sided partial and biased, the Sr. DCM had imposed upon me heavy penalty of reduction in rank and grade i.e., from CGSR to CGC from grade Rs. 2000-3200 (RSRP) to Rs. 1400-2300 (RSRP) fixing my pay at Rs. 1800 for five years with cumulative effect. Here primarily I may please ~~am~~ be permitted to bring to your kind notice that on the day of imposition of punishment I had hardly ~~2 1/2~~ 2 1/2 years service to my credit as my date of retirement being 30th September 1997. Such heavy punishment was inflicted without any consideration which cannot be implemented also. Now I am drawing a pay of Rs. 2180 in grade Rs. 2000-3200 (RSRP) and such a drastic punishment of reduction in rank and pay will put me to a great financial loss and it will effect my retirement benefits also. I am having a clear & good record of service and completed 32 years of service and nearing for retirement. I also belong to scheduled caste and this kind of severe punishment on a poor SC Employees on the biased findings of an alleged assault case where no police complaint nor a medical certificate is cited, is against the justice. I also request to kindly grant me personal hearing in this case along with my defence counsel.

I therefore once again request your kindness to please cancel the faulty punishment order and do justice to me for which act of kindness I shall remain thankful to you Sir.

Yours faithfully,

(V. Ramaswamy)
CGSR/SNAG.
Dt. 12.4.1995.

// True Copy //

27 (32)

SOUTH CENTRAL RAILWAY

Office of the
Divisional Railway Manager (P),
(BG)/Secunderabad.

No.DD/535/2/2000.

Date: 31.5.1995.

O.O.No.59/Comml/DRM/95.

Sub:- Reversion of Shri V.Ramaswamy CGSR/SNAG.

...

Consequent upon the imposition of penalty of reduction from the Grade of CGSR (i.e.) Rs.2000-3200 (RSRP) to the Grade of CGC (i.e.) Rs.1400-2300 (RSRP), fixing his pay at Rs.1800/- P.M. for a period of 2 years commulative effect, vide Disciplinary Authority Sr.DCM/SE's Lr.No. C/C/419/5/OS/Chg/SNAG/94, Dt.5.4.1995, Shri V.Ramaswamy, CGSR/SNAG is reverted to Grade-Rs.1400-2300 (RSRP) and posted as CGC at SNAG against higher grade vacancy of Grade Rs.2000-3200 (RSRP) till further orders ~~xx~~ without claiming any officiating allowance.

The date of implementation of the above orders may be advised to this office.

The above order has been issued with the approval of Competent Authority.

Sd/- x x x x x x x x x
For Sr.DPO(BG)/SG.

// True Copy //

28 (33)

SOUTH CENTRAL RAILWAY

Office of the
Divl.Rly.Manager(Comml)
Sanchalan Bhavan(2nd Floor)
Secunderabad.

No.C/C/419/OS/AD/Chg/SNAG/4, Dt.22.6.1995.

MEMORANDUM

In exercise of the powers conferred under provision of Rule 22 (2) of D&A Rules, 1968, the undersigned the Appellate Authority has gone through the appeal submitted by Shri V. Ramaswamy, CGC/SNAG. The under signed has gone through the appeal as well as other relevant papers carefully and find that Sri V.Ramaswamy, has been taken up for misbehaving and slapping Shri K.Prasad in the office hours. The charges have been proved beyond any reasonable doubt during the enquiry as confirmed by all the witnesses. The facts remains that Shri V.Ramaswamy Slapped Shri K.Prasad in Office Hours as confirmed by witnesses, not withstanding minor difference in timings. This is a very undersirable act on the part of Shri V.Ramaswamy and cannot be accepted under any circumstances. Assault on a colleague in office hours in the office during the transaction of official business is a gross indiscipline and deserves to be dealt with the highest punishment. However, in view of his retirement in near future a lenient view is already taken by the Disciplinary authority and period of punishment reduced. The punishment given by the Disciplinary authority is fully justified ~~xxx~~ and should stand.

2. Accordingly the penalty of reversion from the grade of CGSR i.e. Rs. 2000-3200 (RSRP) to the grade of CGC i.e., Rs. 1400-2300 (RSRP) fixing his pay at Rs. 1800/- P.M. for a period of two years with cumulative effect stands.

3. Under rule 25 of RS(D&A) Rules a revision petition against these orders lies to CCM/SC/ ~~xxxx~~ provided that:-

- (i) the revision petition is preferred within 45 days from the date of receipt of this order and submitted through proper channel.
- (ii) the revision petition does not contain any improper or disrespectful language.

Please acknowledge the receipt.

(Rajkumar)
ADRM/I
Appellate Authority.

To
Shri V.Ramaswamy,
CGC/SNAG. (Through CGSR/SNAG)

// True Copy //

HEADQUARTERS		PAY BILL FOR		ADM UNIT	BILL UNIT		PAGE											
DEPT	PE ACCOUNT NO.	EMPLOYEES NAME	FATHER'S/HUSBAND'S NAME	DESIGNATION	RATE OF PAY	PA	LEAVE DAYS	DUTY DAYS	ELAP	BHAP	PAY	SPECIAL PAY	LEAVE PAY	PERSONAL PAY				
03	922418	V RAMA SWAMY		UGSR	2120			51			2120.00							
REAR PAY	SUSPENSE PAY	TOTAL PAY	DA	N.P.A.	DEPTN. PAY	H.R.A.	CCA.	TA	CONVEYANCE	OVERTIME	NIGHT DUTY	WASHING	MESSING	UNIFORM	INCENTIVE	ARREAR ALLOWANCES		
	100.00	2050.00				450.00	100.00											
ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	GROSS PAY		
																4020.00		
PF	V.P.F.	P.F. ADVANCE BL	INCOME TAX	RENT	LAWN	CESS	WATER	GODOWN	ELECTRIC	FAN HIRE ETC.	ELEC INST	TELEPHONE	P.L.I.	SCHOOL DUES	DIET	STAFF CAR		
277	500														50.00			
RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	CONVEYANCE ADV BI	FESTIVAL ADV BI	FAN ADV BI	INT ON ADV	TOTAL DEDUCTIONS			
											200.00	60			278.00			
OTHER ADVANCE CODE AMOUNT BI	OTHER ADVANCE CODE AMOUNT BI	OTHER ADVANCE CODE AMOUNT BI	SOCIETY DEP	SOCIETY LOAN	SURCHARGE ON TAX	CLUB	L.I.C.	COURT	PROF. TAX	P.R.S.S.	CODE BANK PAYMENT A/C No.	NET PAY BANK	NET PAY CASH					
			90.00	490.00					20.00			NIL	2253.00					
INDIAN RAILWAYS (SCR) SECUNDERABAD													EXPLANATIONS		BLAP=	BHAP=	BI=	2108.00

29

HEADQUARTERS		PAY BILL FOR		ADM UNIT	BILL UNIT		PAGE										
DEPT	PE ACCOUNT NO.	EMPLOYEES NAME	FATHER'S/HUSBAND'S NAME	DESIGNATION	RATE OF PAY	PA	LEAVE DAYS	DUTY DAYS	ELAP	BHAP	PAY	SPECIAL PAY	LEAVE PAY	PERSONAL PAY			
04	922418	V RAMA SWAMY		UGSR	2120			30			2120.00						
REAR PAY	SUSPENSE PAY	TOTAL PAY	DA	N.P.A.	DEPTN. PAY	H.R.A.	CCA.	TA	CONVEYANCE	OVERTIME	NIGHT DUTY	WASHING	MESSING	UNIFORM	INCENTIVE	ARREAR ALLOWANCES	
	105.00	2205.00				450.00	100.00										
ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	ALLOWANCE CODE AMOUNT	GROSS PAY	
49	00.30															5041.30	
PF	V.P.F.	P.F. ADVANCE BL	INCOME TAX	RENT	LAWN	CESS	WATER	GODOWN	ELECTRIC	FAN HIRE ETC.	ELEC INST	TELEPHONE	P.L.I.	SCHOOL DUES	DIET	STAFF CAR	
177	500														50.00		
RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	RECOVERY CODE AMOUNT	CONVEYANCE ADV BI	FESTIVAL ADV BI	FAN ADV BI	INT ON ADV	TOTAL DEDUCTIONS		
											200.00	19	00		278.00		
OTHER ADVANCE CODE AMOUNT BI	OTHER ADVANCE CODE AMOUNT BI	OTHER ADVANCE CODE AMOUNT BI	SOCIETY DEP	SOCIETY LOAN	SURCHARGE ON TAX	CLUB	L.I.C.	COURT	PROF. TAX	P.R.S.S.	CODE BANK PAYMENT A/C No.	NET PAY BANK	NET PAY CASH				
			160.00	490.00					20.00			NIL	2253.00				
INDIAN RAILWAYS (SCR) SECUNDERABAD													EXPLANATIONS		BLAP=	BHAP=	BI=

34

HEADQUARTERS		PAY BILL FOR										ADM UNIT		BILL UNIT			PAGE			
DEPT	PF ACCOUNT NO.	EMPLOYEES NAME				FATHER'S/HUSBAND'S NAME				DESIGNATION	RATE OF PAY	PAY	LEAVE DAYS	DUTY DAYS	BLAP	BHAP	PAY	SPECIAL PAY	LEAVE PAY	PERSONAL PAY
04	03922418	V RAMA SWAMY								CGSR	2120			31			2120.00			
ARREAR PAY	SUST. PAY	TOTAL PAY		D.A.	N.P.A.	DEPTN. PAY	H.R.A.	CCA.	TA	CONVEYANCE	OVERTIME	NIGHT DUTY	WASHING	MESSING	UNIFORM	INCENTIVE	ARREAR ALLOWANCES			
100.00		2205.00					450.00	100.00												
ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		GROSS PAY		
																		4975.00		
PF	V.P.F.	P.F. ADVANCE BL		INCOME TAX		RENT		LAWN	CESS	WATER	GODOWN	ELECTRIC	FAN HIRE ETC.	ELEC INST	TELEPHONE	P.L.I.	SCHOOL DUES	DIET	CGS S	STAFF CAR
177	500																		30.00	
RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		CONVEYANCE ADV BI		FESTIVAL ADV BI	FAN ADV BI	INT ON ADV	TOTAL DEDUCTIONS	
121272.00														200.00 18		60 2			2915.00	
OTHER ADVANCE CODE AMOUNT BI		OTHER ADVANCE CODE AMOUNT BI		OTHER ADVANCE CODE AMOUNT BI		SOCIETY DEP		SOCIETY LOAN	SURCHARGE ON TAX	CLUB	L.I.C.	COURT	PROF. TAX	P.R.S.S.	CODE BANK PAYMENT A/C No.	NET PAY BANK	NET PAY			
						160.00		496.00					20.00			NIL	2000.00			
INDIAN RAILWAYS (SCR) SECUNDERABAD				EXPLANATIONS				BLAP=BALANCE LEAVE ON AVERAGE PAY				BHAP=BALANCE LEAVE ON HALF AVERAGE PAY				BI=BALANCE INSTALMENTS				

30

HEADQUARTERS		PAY BILL FOR										ADM UNIT		BILL UNIT			PAGE			
DEPT	PF ACCOUNT NO.	EMPLOYEES NAME				FATHER'S/HUSBAND'S NAME				DESIGNATION	RATE OF PAY	PAY	LEAVE DAYS	DUTY DAYS	BLAP	BHAP	PAY	SPECIAL PAY	LEAVE PAY	PERSONAL PAY
04	03922418	V RAMA SWAMY								CGSR	2120			30			2120.00			
ARREAR PAY	SUST. PAY	TOTAL PAY		D.A.	N.P.A.	DEPTN. PAY	H.R.A.	CCA.	TA	CONVEYANCE	OVERTIME	NIGHT DUTY	WASHING	MESSING	UNIFORM	INCENTIVE	ARREAR ALLOWANCES			
100.00		2205.00					450.00	100.00												
ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		ALLOWANCE CODE AMOUNT		GROSS PAY		
																		5041.30		
PF	V.P.F.	P.F. ADVANCE BL		INCOME TAX		RENT		LAWN	CESS	WATER	GODOWN	ELECTRIC	FAN HIRE ETC.	ELEC INST	TELEPHONE	P.L.I.	SCHOOL DUES	DIET	CGS S	STAFF CAR
177	500																		30.00	
RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		RECOVERY CODE AMOUNT		CONVEYANCE ADV BI		FESTIVAL ADV BI	FAN ADV BI	INT ON ADV	TOTAL DEDUCTIONS	
121998.00		998.00												200.00 17		60			5441.00	
OTHER ADVANCE CODE AMOUNT BI		OTHER ADVANCE CODE AMOUNT BI		OTHER ADVANCE CODE AMOUNT BI		SOCIETY DEP		SOCIETY LOAN	SURCHARGE ON TAX	CLUB	L.I.C.	COURT	PROF. TAX	P.R.S.S.	CODE BANK PAYMENT A/C No.	NET PAY BANK	NET PAY CASH			
						160.00		496.00					20.00			NIL	2400.30			
INDIAN RAILWAYS (SCR) SECUNDERABAD				EXPLANATIONS				BLAP=BALANCE LEAVE ON AVERAGE PAY				BHAP=BALANCE LEAVE ON HALF AVERAGE PAY				BI=BALANCE INSTALMENTS				

33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O. A. NO. 922/1995.

Between:

V. Ramaswamy .. Applicant.
and
The General Manager,
South Central Railway,
Secunderabad and 2 others: .. Respondents.

REPLY AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS:

I, T. RAMAKESHAN RAO S/O T. RAJESWARA RAO aged about 34 years, R/O. Secunderabad solemnly affirm and state as follows:-

I am working as Senior Divisional Commercial Manager, South Central Railway, Secunderabad as such I am well acquainted with the facts of the case. I am filing this affidavit on behalf of all the respondents as I am authorised to do so.

It is submitted that all the averments made in the O.A. are denied except those that are specifically admitted hereunder.

It is submitted that paras 6(a) (b) and (c) are all factual aspects and are admitted. However with regard to Para 6(d), it is submitted that the applicant visited the Office of the 3rd respondent on 27.6.94 to seek clarification for the recoveries made from his salary as contended in para 6(c) of the O.A. from the Commercial Inspector Sri K. Prasad and the concerned Dealing Clerk in the Office. The applicant behaved in a rude manner as the Inspector was trying to explain the procedure adopted for recovering the dues of admitted debts from the applicant and slapped the Inspector in presence of all the staff in the section.

ATTESTOR. *D. N. Reddy*

उपरोक्त वाक्यांश परीक्षक
Assistant Commercial Manager
द. न. रेड्डी, निवासी (7 ला)
S. C. Railway, Secunderabad (B G)

T. Ramaswamy
DEPONENT

सि. ए. सी. आर. का. वि. प्र. वि. 2.
Senior Divisional Commercial Manager
महानगर (B G) द. न. रेड्डी
Secunderabad (B G) S. C. Railway

*Recd. the Court
on 7.7.95
FVS
1.7.95*

40

It is submitted with regard to para 6(e) that the contention of the applicant that the Commercial Inspector Sri K. Prasad to get away from his lapses as an after thought lodged a complaint with his superior is denied. Sri K. Prasad Commercial Inspector immediately brought to the notice of the 3rd respondent who is incharge of the Commercial department by way of a complaint. On the basis of the said complaint a charge sheet was issued to the applicant on 4.8.94 (ANNEXURE - A)

It is submitted with regard to Para 6(f) that the contention of the applicant that the Enquiry Officer cross examined the applicant is denied. The Enquiry Officer never cross examined the applicant during the course of enquiry as could be seen from the Enquiry Report (Annexure B). It is a fact that there is inconsistency in the time of incident mentioned in the charge memo with that of the two prosecution witnesses and also of Sri K. Prasad's. However, the incident of slapping has been proved beyond doubt.

It is submitted with regard to Para 6(g) that the contentions of the applicant are factual aspects as such the same are admitted.

With regard to para 6(h) it is submitted that though the Disciplinary Authority had imposed the penalty of reduction in grade from Rs. 2000-3200(RSRP) to grade Rs. 1400-2300(RSRP) at a pay of Rs. 1800/- per month for a period of 5 years with cumulative effect vide Order No. C/C/419/OS/AD/Chg/S.NAG/94 dated 8.3.95, the same has been corrected vide letter No. C/C/419/OS/AD/CHG SNAG/94 dated 5.4.95 from 5 years to 2 years with cumulative effect which was acknowledged by the applicant on 12.4.95 (Annexure C).

ATTESTOR

D. S. S.

सहायक वाणिज्य प्रबंधक
Assistant Commercial Manager
द. म. रेल, साउथ कोस्ट (व. ला)
S. C. Railway, Secunderabad (B 8)

DEPONENT

172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000

Secunderabad (B 8) S. C. Railway

The contention of the applicant that the said revised order dated 5.4.95 was served on the applicant after he filed the appeal is incorrect. The applicant in fact had submitted his appeal on 15.4.95 as evident from the endorsement of the Chief Goods Superintendent(Annexure D).

With regard to Paras 6(i) (j) (k) and (l), it is submitted that the contentions of the applicant are denied as not true.

It is submitted that the applicant was given reasonable opportunity and the procedure prescribed under the Discipline and Appeal Rules were followed and there is no violation of principles of natural justice. It is further submitted that the applicant had not chosen even to file a revision petition against the orders of the Appellate Authority under Rule 25 of the Discipline and Appeal Rules.

In view of the above circumstances, it is prayed that the Hon'ble Tribunal may be pleased to dismiss the O.A. as devoid of merits and to pass such other order or orders as deemed fit in the circumstances of the case.

[Signature]
DEPONENT.

Sworn and signed on this

the.....31st.....day of

January, 1995

at

Secunderabad.

सहायक वाणिज्य प्रबंधक

Assistant Commercial Manager
S. C. Railway Secunderabad (B G)

ATTESTOR.

[Signature]

सहायक वाणिज्य प्रबंधक

Assistant Commercial Manager

द. व. रेडवे, स. च. रेलवे (ब. ल.)

S. C. Railway, Secunderabad (B G)

(RULE 9 OF RAILWAY SERVANTS (DISCIPLINE AND

SOUTH CENTRAL RAILWAY
Divisional Office,
Comm. Branch--2nd Floor.
Sancalan Bhavan
Secunderabad.
No. C/C/419/OS/Ad. Chg/SNAG/94.

Date: - 8-1994.

MEMORANDUM

The undersigned propose(s) to hold an enquiry against Sri. V. Ramaswamy., CGSR/SNAG under Rule 9 of the Railway servant (Discipline & Appeal) Rules 1968. The substance of the imputations of misconduct or misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure. I). A statement of imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure. II). A list of all the documents by which and a list of witnesses by whom, the article of charge are proposed to be sustained are also enclosed (Annexure. III & IV

2. He is further informed that he may, if he so desires to take the assistance of any other Railway servant/an official of Railway Trade Union (who satisfied the requirements of Rule 9(13) of the Railway servants (Discipline and Appeal) Rules 1968 and Note 1 and/or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Enquiry Authority in the event of an Oral Enquiry being held. For this purpose he should nominate one or more persons in order of preference, before nominating the assisting Railway servant(s) or Railway Trade Union Officials. He should obtain an undertaking from the nominee(s) that he is willing to assist him during the disciplinary proceedings. The Undertaking should also contain the particulars of other case(s), if any in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned along with the nomination.

3. He is hereby directed to submit to the undersigned a written statement of his defence within 10 days of receipt of this Memorandum if he does not require to inspect any documents for the preparation of his defence and within 18 days after completion of inspection of his documents, if he desires to inspect documents, and also

- a. to state whether he wishes to be heard in person,
- b. to furnish the names ^{and} addresses of the witnesses if any whom he wishes to call in support of his defence.

4. He is informed that an inquiry will be held only in respect of these, articles of charge as are not admitted. He should therefore, specifically admit or/deny each article of charge.

5. He is further informed that if he does not submit his written statement of Defence within the period specified in para 4 or does not appear in person before the enquiring authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway servants (Discipline and Appeal) Rules 1968, of the orders/directions issued in pursuance of the said rule, the enquiry authority may held the enquiry ex parte.

Cont.... 2.

44

6. The attention of Sri.V.Ramaswamy, CCSR/SNAG is invited to Rule 20 of the Railway Services(Conduct) Rules, 1966 under which no Railway servant shall bring or attempt to bring any political, or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that he is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services(Conduct) Rules.

7. The receipt of this Memorandum may be acknowledged.

Encl : One.

Signature :- Sd/-
Name and designation(Dr.T.R.K.RAO)
of Disciplinary Authority. Sr.DCM/SC.

Shri.V. Ramaswamy,
CCSR/SNAG.

C/- CCI/B&T. He will please serve the enclosed Memorandum on the employee and obtain and forward his acknowledgement. If the whereabouts of the employee are not known, the same shall be pasted in the Notice Board for ten days and this office advised that this has been done. A statement obtained from two of his co-workers shall also be forwarded regarding the whereabouts of the employee immediately. He will please preserve the documents mentioned in the Annexure III of this charge sheet under safe custody, so as to make the same available whenever required.

2. HOS/Bills(Comm)SC, Sr. DPO's office/SC for information and necessary action.

Sd/-
Sr. Divl. Commercial Manager.
Secunderabad.

Wb
Sd/-
7-3-96

205

ANNEXURE I

Statement of Articles of charges framed against Sri.V.Ramaswamy
CGSR/SNAG.

---X---

That the said Sri.V.Ramaswamy, CGSR/SNAG committed serious misconduct and behaved in a manner unbecoming of a Railway servant in that on 27.06.1994 at about 12.05 hours, he has assaulted Sri.K.Prasad, SCI/Secunderabad, who was on duty in Sr.DCM's office/Secunderabad.

He thus violated Rule 3 I(ii) (iii) of RS(Conduct) Rules 1966.

ANNEXURE II.

Statement of imputations of misconduct or misbehaviour in support of the article of charges framed against Sri.V.Ramaswamy, CGSR/SNAG.

---X---

Shri.V.Ramaswamy, while working as Chief Goods Supervisor, at Sapatnagar New Goods Complex during June, 1994 has committed serious misconduct and behaved in a manner unbecoming of a Railway Servant in that he has come to Sr. DCM's office/Secunderabad at 12.05 hours and contgated Sri.K.Prasad regarding recovery of admitted debits which is being recovered from his salary. While Sri.K.Prasad was explaining to him about the actual amount of admitted debits outstanding against him and the recoveries being done from his salary, Sri. V.Ramaswamy has lost his temper and assaulted Sri.K.Prasad.

He thus violated Rule 3 I (ii) (iii) of RS(Conduct) Rules 1966.

ANNEXURE III.

List of documents by which the article of charges framed against Shri.V.Ramaswamy, CGSR/SNAG are proposed to be sustained.

1. Complaint of Sri.K.Prasad, SCI/SC dated 27.6.94.

ANNEXURE IV.

List of witnesses by whom the article of charges framed against Shri.V.Ramaswamy, CGSR/SNAG are proposed to be sustained.

1. Shri.K.Prasad, SCI/Secunderabad.
2. Shri.U.Satyam Babu, CS/Sr. DCM's office/SC.
3. Shri.Syed Saber Hussain, Head Clerk, Sr. DCM's office/SC.

Sd/-
Sr.Divl. Commr. Manager,
Secunderabad.

K. S. S. S.
5/7-3-86

DAR ENQUIRY REPORT IN THE VIGILANCE CASE AGAINST SHRI. V. RAMASWAMY
CGSR/SNAG. ---X---

Name of the Charged Employee : Shri. V. Ramaswamy, CGSR/SNAG
 Name of the Defence counsel : Shri. V. P. R. Pillai.
 Name of the Enquiry Officer : Shri. T. Venkat Rao, ACM/Catg/SC.

BRIEF HISTORY OF THE CASE:

Shri. V. Ramaswamy, CGSR/SNAG was issued with a Chargesheet for Major Penalty vide charge Memorandum No. C.C.419.OS.AD.Chg. dated: 4.8.94 for the following charges.

That the said Shri. V. Ramaswamy, CGSR/SNAG committed serious misconduct and behaved in a manner unbecoming of a Railway servant in that on 27.6.94 at 12.05 hours, he has assaulted Shri. K. Prasad, SCI/SC who was on duty in Sr. DCM's Office/Secunderabad.

He thus violated Rule 3 I (ii) (iii) of RS(Conduct) Rules 1966. Considering the explanation submitted by the employee, Sr. DCM/SC, the Disciplinary Authority, has ordered DAR enquiry nominating Shri. T. Venkat Rao, ACM/Catg/Secunderabad as Enquiry Officer.

The following documents were taken into accounts during the enquiry.

- 1) Complaint of Shri. K. Prasad, CCI/SC dated: 27.6.94.

ASSESSMENT OF EVIDENCE AND REASONS FOR EVIDENCE.

The three prosecution witnesses viz., S/Sri. U. Satyam Babu, Syed Sabir Hussain, K. Prasad and the delinquent were examined. All the three witnesses vide their answer to question Nos. 10, 16 and 24 have stated that Shri. V. Ramaswamy, CGSR/SNAG has slapped Sri. K. Prasad, CCI/SC. However the Defence Counsel during the enquiry and in his Defence statement stated that Shri. V. Ramaswamy has not slapped Sri. K. Prasad on 27.6.94 at 15.00 Hours (3:00 clock) as the delinquent employee was with Shri. Bharate, the Defence witness between 14.30 hours to 15.30 hours only Sri. K. Prasad, vide his answer to Q.No. 11 has stated that Shri. V. Ramaswamy has slapped him at 15.00 hours but the remaining two witnesses viz., S/Shri. Syed Sabir Hussain and U. Satyam Babu have stated that the incident has taken place in the forenoon. Shri. K. Prasad, also in his complaint addressed to Sr. DCM/SC has mentioned the time of incidence as 12.05 hours. Though there is a difference in the time of incidence mentioned by Shri. Prasad during the enquiry it is a fact that Shri. V. Ramaswamy, slapped Sri. K. Prasad. Due to the unexpected act of Shri. V. Ramaswamy on 27.6.94 - Shri. K. Prasad was in a very disturbed state, and he was not in a position to remember the exact time of incidence, but there are corroborative evidence available on this record both oral and documentary which establishes that the incident took place at 12.05 hours, therefore the charges get substantiated.

FINDINGS :-

The charge that Shri. V. Ramaswamy; CGSR/SNAG has committed serious misconduct and behaved in a manner unbecoming of a Railway servant in that on 27.6.94 at 12.05 Hours he has assaulted Sri. K. Prasad, SCI/SC who was on duty in Sr. DCM's office/Secunderabad is proved.

Sd/- (T. VENKATA RAO)
ENQUIRY OFFICER.

5-3-96

SOUTH CENTRAL RAILWAY.

Office of the
Divisional Railway Manager,
Commercial Branch,
Sanchalan Bhavan (II Floor),
Secunderabad.

No. C.C.419.OS.AD.Chg.SNAG.94.

Dated: 05-4-1995.

CORRIGENDUM.

Further to this Office penalty order of even No. dated 8-3-1995, the first para may be read as under:-

I have carefully gone through the enquiry proceedings report, defence note and the representation submitted by the employee. Assault of the staff in such intemperate and rude manner is highly unbecoming of a Railway Servant and witnesses have also clearly stated that the charged employee has assaulted the commercial inspector on duty. The charge was proved in the enquiry also. I have therefore, decided to impose on him the penalty of reduction of grade. Accordingly he is reverted from the grade of CGSR i.e. Rs. 2000-3200 (RSRP) to the grade of CGC i.e. Rs. 1400-2300 (RSRP), fixing his pay at Rs. 1800/- P.M. for a period of TWO years with cumulative effect.

Please acknowledge receipt.

(Dr. T.R.K. RAO)
Sr.DCM/SC.
Disciplinary Authority.

Shri V. Ramaswamy,
CGSR/SNAG (Through: CGSR/SNAG).

Copy to: CGSR/SNAG for information. He will please handover the enclosed letter to the above employee and forward his acknowledgement.

sd/-
Sr.Divl.Comml.Manager,
Secunderabad.

Whe
sc
7-3-86

(16)

consideration which cannot be implemented also. Now I am drawing a pay of Rs. 2180 in grade Rs. 2000-3200 (RSRP) and such a drastic punishment of reduction in rank and pay will put me to a great financial loss and it will effect my retirement benefits also. I am having a clear good record of service and completed 32 years of service and I nearing for retirement. I also belong to scheduled caste and this kind of severe punishment on a poor SC employee on the basis of findings of an alleged assault case where no police complaint nor a medical certificate is cited, is against the justice. I also request to kindly grant me personal hearing in this case along with my defence counsel.

I therefore once again request your kindness to please cancel the faulty punishment order and do justice to me for which act of kindness I shall remain thankful to you Sir,

Yours faithfully,

(Signature)

(V. RAMASWAMY)
CGSR/SNAG.

Forwarded to ADR in file

Radhakrishnan

मुख्य वस्तु निरीक्षक

सनतनगर न्यू गुड्स कॉम्प्लेक्स

CHIEF GOODS SUPERVISOR
SANATNAGAR, NEW GOODS COMPLEX

*Scptd
7-3-76*

The Addl. Divisional Railway Manager/II,
South Central Railway,
Secunderabad.

Subj: Annexure
48

THROUGH PROPER CHANNEL

Respected Sir,

Subj: Appeal against imposition of Penalty.

Ref: C/C/19/OS/AD/Chg/SNAG/94 of 8-3-1995.

I was issued with a charge memorandum that I slumped Sri.K.Prasad SCL/SC on 27-6-1994 at 12.05 hrs. An enquiry was conducted on 16-12-1994. The enquiry officer had given his findings I preferred an appeal on the findings as the findings were biased and one sided.

I am forced to make this statement because in any case of such nature the timings of the incident is the most important factor. Both the witness S/Sri.Satyam Babu or Shabir Hussain were not able to say the timings they had simply stated that the incident took place during "forenoon" while the employee whom I said to have slumped had stated that the incident took place at 15.00 hrs. This itself is contradictory. Further on 27-6-1994, Sri K.Prasad had given a complaint quoting time minute to minute that is at 12.05 hrs. But in the enquiry he had stated that the alleged incident took place at 15.00 hrs in the evening. The enquiry Officer had concluded that Sri. Prasad was in disturbed stage on 27-6-1994 though the employee had not stated the same. If such a incident took place, on that day he can be in disturbed condition (it is limited to the day of occurrence only) but not on the day of enquiry i.e., at a distant date. The enquiry officer had not taken these factors into consideration but simply stated that the charges are proved which clearly shows that he is biased and one sided.

Based on the findings which are not im-partial i.e., they are one sided partial and biased, the Sr.DCM had imposed upon me heavy penalty of reduction in rank and grade i.e., from CGSR to CGC from grade Rs.2000-3200 (RSRP) to Rs.1400-2300 (RRRP) fixing my pay at Rs.1800 for five years with cumulative effect. Here primarily I may please be permitted to bring to your kind notice that on the day of imposition of punishment I had hardly 2 1/2 Years service to my credit as my date of retirement being 30th Sep 1997. Such heavy punishment was inflicted without any

In the Central Administrative
Tribunal, Hyderabad

OA No 922 of 95



Reply statement filed on behalf
of Respondents

Filed by: D. Francis Paul
SC for Reply

Address:

D. Francis Paul
SC for Reply
Secundarabad

Reply filed

50

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD,

MA.No.116 of 1998 (in OA.922/95

MA No-114 of 115/98

Dated:20.2.1998.

Between:

- Sri V.Rama Swamy (since died)
1. Mrs.R.Gnanapad
2. R.Deeba Suresh
3. R.Shalini Devi
4. R.Ram Satish Kumar
5. R.Ram Sunder Rao

} LRs

.. Applicants.

And

1. The General Manager, South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial), Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o The Divisional Railway Manager, Commercial Branch, Secunderabad.

.. Respondents.

Counsel for the Applicants : Mr.N.Rama Mohan Rao

Counsel for the Respondents : Mr. D.F.Paul,

CORAM:

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

THE HON'BLE MR. B.S.JAI PARAMESWAR : MEMBER (J)

* * *

THE TRIBUNAL MADE THE FOLLOWING ORDER:

None on either side. MA is dismissed.


Deputy Registrar

MA.116/98 in OA.922/95

Copy to:-

1. The General Manager, South Central Railway, Secunderabad.
2. The Additional Railway Manager, (Commercial), Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o The Divisional Railway Manager, Commercial Branch, Secunderabad.
4. One copy to Mr. N.Rama Mohan Rao, Advocate, CAT., Hyd.
5. One copy to Mr. D.F.Paul, SC for Rlys, CAT., Hyd.
6. One duplicate.

srr

6

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. JAI PARAMESHWAR :
M(J)

DATED: 20/2/98

~~ORDER/JUDGMENT~~

M.A./B.A/C.A. NO. 116/98

in

B.A. NO. 922/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED MA is dismissed

DISPOSED OF WITH DIRECTIONS
DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ब्रेषण / DESPATCH
25 FEB 1998
हैदराबाद न्यायपीठ
HYDERABAD BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

M.A.NO.223/98 in M.A.NO.116/98
in O.A.922/95

Between:

Dt. of Order: 29.3.98

Bri V.Rama Suamy (since died)

- 1. Mrs.R.Gnanapad X
- 2. R.Deeba Suresh X
- 3. R.Shalini Divi X LRs
- 4. R.Ram Satish Kumar X
- 5. R.Ram Sunder Rao X

And

...Applicants.

- 1. The General Manager, South Central Railway, Secunderabad.
- 2. The Addl.Railway Manager,(Commercial), Sanchalan Bhaban, 2nd Floor, Secunderabad.
- 3. The Senior Divisional Commercial Manager, O/O The Divisional Railway Manager, Commercial Branch, Secunderabad.

...Respondents.

Counsel for the Applicants : Mr.N.Ram Mohan Rao

Counsel for the Respondents : Mr.D.F.Paul

CORAM:

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

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

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Heard Mr.Siva for Mr.N.Ram Mohan Rao for the applicant and Mr.D.F.Paul for the respondents.

The LRs of the deceased applicant have filed this restoration petition in M.A. 116/98.

For the reasons stated in the affidavit we restored the M.A.116/98.

Thus the M.A.is disposed of.


DEPUTY REGISTRAR

54

..2..

Copy to:

1. The General Manager, South Central Railway, Secunderabad.
2. The Addl. Railway Manager, (Commercial), Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/O The Divisional Railway Manager, Commercial Branch, Secunderabad.
4. One copy to Mr. N. Ram Mohan Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr. D. F. Paul, Addl. CGSC, CAT, Hyderabad.
- 6- One duplicate copy.

YLKR

6

TYPED BY
COMPARED BY

CHECKED BY
APPROVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. JAI PARAMESHWAR :
M(3)

DATED: 19/3/98

ORDER/JUDGMENT

M.A./A.A. NO. 223/98 in

MA 116/98

in

O.A. NO. 922/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

MA

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

Stamp: CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
SECRETARY

The applicants in this M.A., are the legal representatives of the deceased applicant in the O.A.

The applicant in the O.A., has challenged certain Proceedings issued by the Respondents Authorities after initiating Disciplinary Proceedings against him. The applicant died on 29-10-1996.

On 21-1-1998 the legal representatives of the deceased applicant have filed the M.A., praying this Tribunal to condone the delay in filing the abatement petition.

No individual affidavit has been filed in support of the petition for condonation of delay. However, they have filed an affidavit in support of M.A.116/1998 which is filed by them to come on record. In the said affidavit, the 4th applicant has sworn on oath and stated that his father died on 29-10-1996 at Railway Hospital, Perambur, Tamil Nadu, that he was cremated at Tiruchapalli and after completing the obsequies of the deceased applicant, they returned to Hyderabad in the month of November, 1996. It is further stated that after their return from Tamil Nadu they made enquiries with the Respondents Authorities and came to know of the pendency of the O.A. and also contacted the counsel of the deceased applicant and the counsel advised him to obtain a certificate of death of his father and that therefore they were compelled to go back to Madras to obtain the certificate of death of his father.

1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

M.A.No. 114/1998.

O.A.No. ¹²922/1995.

Date of Order: April 30, 1998.

--

Between:

Sri V.Rama Swamy (since died) his L.Rs.

1. Mrs. R.Gnanapad.
2. R.Deeba Suresh.
3. R.Shailini Devi.
4. R.Ram Satish Kumar
5. R.Ram Sunder Rao (being minor represented by his mother Smt. R.Ghanapad.)

xx

And

1. The Union of India represented by the General Manager, South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial) Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/O the Divisional Railway Manager, Commercial Branch, Secunderabad.

Counsel for the applicant : Mr. N. Rama Mohan Rao Respondents.
 Counsel for the respondents: Mr. D.F. Paul

CORAM:

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

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

ORDER

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

--

Heard Sri Siva for Sri N. Rama Mohan Rao for the applicants and Sri D Francis Paul for the respondents.

12



59

The contention of the Legal Representatives in the M.A., is that substantial law is involved in this O.A., and hence bringing the legal representatives of the deceased applicant on record is essential. The case relates to Disciplinary Proceedings. In Disciplinary Proceedings powers of the Tribunals/Courts are very much limited. We find from our experience that quashing of the punishment in the Disciplinary Proceedings is not an easy task and a number of cases are dismissed. Hence the question of law in the Disciplinary Proceedings is not substantial. For some acts of omission, the applicant has been punished. Whether those orders are liable to be quashed or not will be the only consideration and hence we are not in agreement with the the applicant's counsel to say that non-impleading of the legal representatives in the O.A. will cause immense hardship to the applicants.

The Legal Representatives relied upon a decision of the Hon'ble Supreme Court reported in SUDHA SHRIVASTAVA Vs. COMPTROLLER AND AUDITOR GENERAL OF INDIA (A.I.R.1996 S.C.571). In that case the Supreme Court held that the right to get the benefits which would have been due to the appellant's husband in that case as a result of the sealed cover procedure, would devolve on the applicant. The facts of this case are different. It is a case of disciplinary proceedings. As it is stated earlier the applicant's getting a favourable order in the case of Disciplinary Proceedings is very much limited and that ^{cited} case cannot be compared with the present case.

Further, the question of delay in that case did not arise.

Jr.

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58

These are the main reasons putforth in the affidavit. We may observe here that the 4th applicant has nowhere stated when he contacted the respondents-authorities or the counsel of the deceased applicant. Even though he stated that the counsel had advised him to obtain the certificate of death of his father, no certificate of death has been enclosed to the M.A.

The respondents have filed their counter to this M.A. stating that the legal representatives of the deceased applicant have not explained the reasons for filing this application for condonation of delay of 356 days even though the legal representatives were required to explain each day's delay. We may not agree with the said proposition. We would have been satisfied had the 4th applicant explained the delay after he came to Hyderabad in November, 1996. He had not explained when he contacted the respondents authorities or the counsel of the deceased applicant or when he went to Madras for obtaining the certificate of death of his father or when he obtained the certificate of death of his father. These details are not given in the affidavit except to state that they had come to Hyderabad in November, 1996. The other details when he contacted the Respondents Authorities and the counsel of his deceased father, have not yet been explained. If really the certificate of death was necessary, then they could have requested their learned counsel to file necessary application for bringing the legal representatives on record with an undertaking that they would subsequently produce the certificate of death in course of time.



that
In view of that, ~~the~~ case was admitted and further proceedings were issued whereas in this case the legal representatives have not approached the Tribunal in time. So the question of comparing both the cases may not be proper.

In view of what is stated above, we find ~~there~~
~~is~~ no merit in this M.A., for condoning the delay.
The M.A., is dismissed. No costs.

The M.A., for condonation of delay is dismissed
no orders are necessary in M.As., 115 and 116/98. They
are accordingly stand dismissed.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

M
न्यायिक अधिकारी/जुज रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD
R.A/M.A/C.P.NO.

ORIGINAL APPLICATION NO.

922/95 dt-30/4/98

TRANSFER APPLICATION NO.

OLD PETITION NO.

CERTIFICATE

CERTIFIED THAT NO FURTHER ACTION IS REQUIRED TO BE TAKEN
AND THE CASE IS FIT FOR CONSIGNMENT TO THE RECORD ROOM (DECIDED)

DATED: 5/5/98
COUNTER SIGNED

SECTION OFFICER/COURT OFFICER

SIGNATURE OF THE SEALING BSST.

YLKR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

M.A.No. 114/1998.

O.A.No. ⁴²922/1995.

Date of Order: April 30, 1998.

--

Between:

Sri V.Rama Swamy (since died) his L.Rs.

- 1. Mrs. R.Gnanapad.
- 2. R.Deeba Suresh.
- 3. R.Shailini Devi.
- 4. R.Ram Satish Kumar
- 5. R.Ram Sunder Rao (being minor represented by his mother Smt. R.Ghanapad.)

for

And

- 1. The Union of India represented by the General Manager, South Central Railway, Secunderabad.
- 2. The Additional Railway Manager (Commercial) Sanchalan Bhavan, 2nd Floor, Secunderabad.
- 3. The Senior Divisional Commercial Manager, O/O the Divisional Railway Manager, Commercial Branch, Secunderabad.

Counsel for the applicant : Mr. N. Rama Mohan Rao Respondents.
 Counsel for the respondents: Mr. D.F. Paul

CORAM:

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

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

ORDER

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

--

Heard Sri Siva for Sri N.Rama Mohan Rao for the applicants and Sri D Francis Paul for the respondents.

: 3 :

These are the main reasons put forth in the affidavit. We may observe here that the 4th applicant has nowhere stated when he contacted the respondents-authorities or the counsel of the deceased applicant. Even though he stated that the counsel had advised him to obtain the certificate of death of his father, no certificate of death has been enclosed to the M.A.

The respondents have filed their counter to this M.A. stating that the legal representatives of the deceased applicant have not explained the reasons for filing this application for condonation of delay of 356 days even though the legal representatives were required to explain each day's delay. We may not agree with the said proposition. We would have been satisfied had the 4th applicant explained the delay after he came to Hyderabad in November, 1996. He had not explained when he contacted the respondents authorities or the counsel of the deceased applicant or when he went to Madras for obtaining the certificate of death of his father or when he obtained the certificate of death of his father. These details are not given in the affidavit except to state that they had come to Hyderabad in November, 1996. The other details when he contacted the Respondents Authorities and the counsel of his deceased father, have not yet been explained. If really the certificate of death was necessary, then they could have requested their learned counsel to file necessary application for bringing the legal representatives on record with an undertaking that they would subsequently produce the certificate of death in course of time.



The contention of the Legal Representatives in the M.A., is that substantial law is involved in this O.A., and hence bringing the legal representatives of the deceased applicant on record is essential. The case relates to Disciplinary Proceedings. In Disciplinary Proceedings powers of the Tribunals/Courts are very much limited. We find from our experience that quashing of the punishment in the Disciplinary Proceedings is not an easy task and a number of cases are dismissed. Hence the question of law in the Disciplinary Proceedings is not substantial. For some acts of omission, the applicant has been punished. Whether those orders are liable to be quashed or not will be the only consideration and hence we are not in agreement with the the applicant's counsel to say that non-impleading of the legal representatives in the O.A. will cause immense hardship to the applicants.

The Legal Representatives relied upon a decision of the Hon'ble Supreme Court reported in SUDHA SHRIVASTAVA Vs. COMPTROLLER AND AUDITOR GENERAL OF INDIA (A.I.R.1996 S.C.571). In that case the Supreme Court held that the right to get the benefits which would have been due to the appellant's husband in that case as a result of the sealed cover procedure, would devolve on the applicant. The facts of this case are different. It is a case of disciplinary proceedings. As it is stated earlier the applicant's getting a favourable order in the case of Disciplinary Proceedings is very much limited and that ^{case} case cannot be compared with the present case.

Further, the question of delay in that case did not arise.

Jr


2

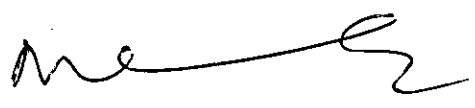
65

that
In view of that, ~~the~~ case was admitted and further proceedings were issued whereas in this case the legal representatives have not approached the Tribunal in time. So the question of comparing both the cases may not be proper.

In view of what is stated above, we find ~~there~~
~~is~~ no merit in this M.A., for condoning the delay.
The M.A., is dismissed. No costs.

The M.A., for condonation of delay is dismissed
no orders are necessary in M.As., 115 and 116/98. They
are accordingly stand dismissed.


B.S. JAI PARAMESHWAR,
MEMBER (J)
304.98


R. RANGARAJAN,
MEMBER (A)

Date: 2 30-4-1998.

Dictated in open Court.



66

MAS.114/98 & 115/98
DA.022/95

Copy to:-

1. The General Manager, South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial), Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o The Divisional Railway Manager, Commercial Branch, Secunderabad.
4. One copy to Mr. N. Rama Mohan Rao, Advocate, CAT., Hyd.
5. One copy to Mr. D.F. Paul, SC for Rlys, CAT., Hyd.
6. One copy to BSCP M(3), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

srr

8

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

DATED: 30/4/98

ORDER/JUDGMENT

M.A/R.A/C.P. NO. 114/98, 115 & 116/98

in

J.A. NO.

922/95

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद ख्यायपीठ
HYDERABAD BENCH

19 MAY 1998
Despatch No. 114/98
~~RECEIVED~~
विभाग/RECALL SECTION

of nos 114, 115 & 116/88 & the OA is dismissed
as abated. Shall be added.

1116
Deputy Registrar

To,

- 1) The General Manager, South Central Railway, Sec. Bd.
- 2) The Additional Railway Manager (Commercial),
Sambalpur Station, 2nd Floor, Sec. Bd. Sec.
- 3) The Senior District Commercial Manager, O/O
The District Railway Manager, Commercial Branch,
Sec. Bd.
4. one copy to Mr. N. Janakrishna Rao, Asstt.
CST, Hyderabad.
5. one copy to Mr. D.P. Paul S.C. for Rly, CST,
Hyd.
6. one copy to Shri B. S. Jain Parameswaran,
Member (C), CST Hyd.
7. one copy to Dtl (A), CST Hyd.
8. one spare copy.

11/6/88

In the Central Government Industrial Hyderabad

at Hyderabad

68

M/S 114, 115 & 116/98

in
G.O. 922/95

8-6-98

Between

Srs. R. Anand Swamy (represented) vs L. R.

1. Mrs. R. Anand Swamy
2. R. Deeba Suresh
3. R. Shalini Devi
4. R. Nam Satish Kumar
5. R. Ram Sunder Rao (being minor represented by his mother Mrs. R. Anand Swamy)

AND

Union of India represented by the General Manager, South Central Railway, Secunderabad and 2 others.

— Resub

By order of Tribunal dated 8-6-98 the following Corrigendum has been issued to the copy of the order in M/S 114/98, 115/98 and M/S 116/98 in G.O. 922/95 dated 30-4-98 and despatched to you on 19-5-98 in continuation of the said order.

Corrigendum

In the last page of the order in M/S 114, 115 & 116/98 is G.O. 922/95 at the last para ~~the words~~ after the word "dismissed," the sentence "In view of the dismissal"
 last line of the order

89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

M.As.114,115 and 116/98 in O.A.NO.922/95

Between:

Dt.8.6.98.

Sri V.Rama Swamy (Since Died)his L.Rs.

1. Mrs.R.Gnanapad
2. R.Deeba Suresh
3. R.Shalini Devi
4. R.Ram Satish Kumar
5. R.Ram Sunder Rao (being minor represented by his mother Smt.Gnanapad) ...Applicants.

And

Union of India, represented by the General Manager, South Central Railway, Secunderabad and 2 others.

...Respondents.

By order of the Tribunal dt.8.6.98 the following Corrigendum has been issued to the copy of the order in M.A.114/98,115/98 and M.A.116/98 in O.A.NO.922/95 dt.30.4.98 and despatched to you on 19.5.98, in continuation of the said order.

CORRIGENDUM

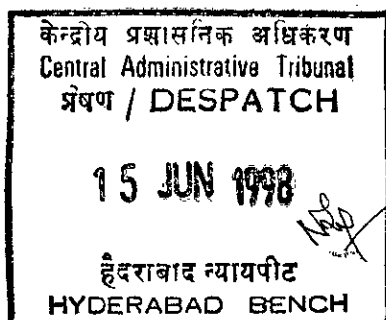
In the last page of the order in M.As.114,115 and 116/98 in O.A.922/95 at the last para last line of the order after the word "Dismissed", the sentence "In view of the dismissal of M.As.114,115 and 116/98, the O.A. is dismissed as abated". shall be added.

[Signature]
DEPUTY REGISTRAR

To

1. The General Manager, South Central Railway, Secunderabad.
2. The Addl. Railway Manager, (Commercial) Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/O The Divisional Railway Manager, Commercial Branch, Secunderabad.
4. One copy to Mr.D.F.Paul, S.C.for Rlys., CAT, Hyderabad.
5. One copy to Mr.N.Ram Mohan Rao, Advocate, CAT, Hyderabad.
6. One copy to HBSJP, M(J), CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One spare copy.

YLKR



ANNEXURE
form of Index

MA. 115/94W

List of papers in MA/~~CP/PP~~/No. 114/98 in OA.No. 922/95

Serial No of papers on records Part-I	Date of papers or Date of filling	Description of papers.	Remarks.
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21/1/98 - Petition

Reply submitted
by M.W.D.F.
Paul m 22/1/98

Fair list case on tomorrow i.e.,
on 22.1.1998 before the High
Court

Hyderabad District

In the Central Administrative
Tribunal: Additional Bench: at
Hyderabad

M.A.No. of 1998

In

O.A.No. 922 of 1997



Condone Delay Petition

M/s. Nooty Rama Mohana Rao,
K.S.V. Subba Rao,
Abhinand K Shavili, &
Siva.

Counsel for the Applicants.

Application filed U/R ^{17/18(2)} 8(A) of the Admn. Tribunal's Act, 1985

M.A.No.

114

of 1998 MA. 115/98

in

O.A.No.

922

of 1995

Between:-

Sri V. Rama Swamy (Since died) his LRs.

1. Mrs. R. Gnanapad, W/o. Sri V. Ramaswamy, 47 years,
Occ: House Wife, R/o. Hyderabad.
2. R. Deeba Suresh, S/o. Late V. Ramaswamy, 28 years,
Occ: Unemployed, R/o. Hyderabad.
3. R. Shalini Devi, D/o. Late Sri V. Ramaswamy, 24 years,
R/o. Hyderabad.
4. R. Ram Satish Kumar, S/o. Late Sri V. Ramaswamy,
22 years, R/o. Hyderabad.
5. R. Ram Sunder Rao, (being a minor), rep. by his
mother Smt. R. Gnanapad, W/o. Sri V. Ramaswamy,
Occ: House Wife, R/o. Hyderabad. ... Applicants

AND

1. The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial),
Sanchalan Bhevan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o. the
Divisional Railway Manager, Commercial Branch,
Secunderabad. ... Respondents

For the reasons and in the circumstances stated, in the
^{U.R. 17/18(2)}
~~accompanying affidavit~~, the applicants herein pray that this
Hon'ble Tribunal in the interests of Justice be pleased to
condone the delay of ³⁵⁶ days in filing the application for
bringing the LRs on records, and pass such other and further
order or orders as are deemed fit and proper in the circumstances
of the case.

Hyderabad,

Dated: 21.1.1998


Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD.

M.A. NO. 114 OF 1998

IN

O.A. NO. 922 OF 1995

BETWEEN :

V. Ramaswamy (since died)

1. Mrs. R. Gnanapad |
2. R. Deeba Suresh |
3. R. Shalini Devi |
4. R. Ram Satish Kumar | LRs
5. R. Ram Sundar Rao | .. APPLICANTS

A N D

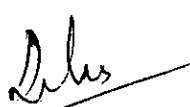
The General Manager,
South Central Railway,
and two others .. RESPONDENTS

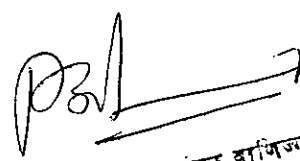
REPLY STATEMENT FILED ON BEHALF OF RESPONDENTS

I, P. Seethapathi Rao s/o Venkatappaiah aged 57 years, occupation government service, residing at Secunderabad do hereby solemnly affirm and state as follows :

1. I am working as Sr.DGM/S.C.Rly/Secunderabad and Respondent no.3 in the MAs and as such, I am well acquainted with the facts of the case. I am filing this reply statement on behalf of all the Respondents, as I have been authorised to do so.
2. It is submitted that the various averments made in the affidavit made by the applicant in support of the MAs are denied, save those that are specifically admitted hereunder.
3. It is submitted that the Applicants filed the affidavit in support of the three MAs, viz. i) MA 114/98 for delay condonation in filing the application to bring the LRs on record. ii) MA 115/98 to set aside the abetment of the OA if already abetted. iii) MA 116/98 to permit the applicants herein to be brought on record in O.A. 922/95 to prosecute the same.

....2


महाप्रबन्धक वाणिज्य प्रबन्धक
Assistant Commercial Manager,
इ. म. रेलवे, हैदराबाद (इ. भा.)
E. C. Railway, Secunderabad (B G)


वरिष्ठ मंडल वाणिज्य प्रबन्धक
Senior Divisional Commercial Manager
हैदराबाद (गल) इ. म. रेलवे
Secunderabad (B G) 30.11.2011

4. It is submitted that the averments made by the applicant/ in support of the three MAs are untenable and devoid of merit for the following reasons :

1) MA 114/98 for delay condonation.

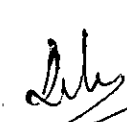
It is submitted that the Applicant in OA 922/95 expired on 29-10-96. In terms of Rule 18 of CAT (Procedure) Rules 1987 the LRs of the deceased applicant should have applied within ninety days of the date of death (29-10-96) for being brought on record as necessary parties. In as much as the LRs of the deceased applicant did not apply within ninety days, the proceedings in the OA 922/95 have abated after expiry of ninety days. The Applicants have come up with this MA for condoning the delay of more than one year in filing the petitions for setting aside the abatement order and to bring the LRs of the deceased applicant on record without furnishing any justifiable grounds and without furnishing any day to day reasons for delay. The reasons mentioned for the delay are vague and without substance and cannot be accepted and the MA 114/98 is liable to be dismissed.

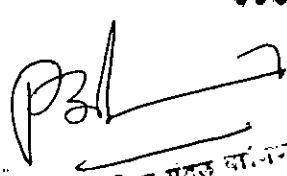
ii) MA 115/98 to set aside the abatement of the OA.

It is submitted that the MA is not maintainable in law and the abatement of the OA cannot be set aside. It is submitted that the applicant in OA 922/95 was punished by the Disciplinary Authority under DGA Rules, 1966 for assaulting one K. Prasad, SCI/SC on duty in the office of the Sr. DGM/SC, with the penalty of reversion from the grade of CGSR i.e. Rs.2000-3200 (RSRP) to the grade of CGC i.e. Rs.1400-2300 (RSRP) fixing his pay at Rs.1800/- P.M. for a period of two years with cumulative effect by order No.C/C/419/OS/AD/Chg/SNAG/94 dtd. 8-3-95/5-4-95. The said penalty was confirmed by the appellate authority by order no.C/C/419/OS/AD/Chg/SNAG/94 dtd. 22-6-95. Aggrieved by this punishment, the applicant filed OA 922/95 challenging the same. The OA is being contested by the Respondent, duly filing suitable reply. While the OA was pending for hearing, the applicant expired on 29-10-96, resulting in the abatement of the O.A.

It is submitted that the abatement of this O.A. cannot be set aside under law since the claim in this case is founded entirely

....3

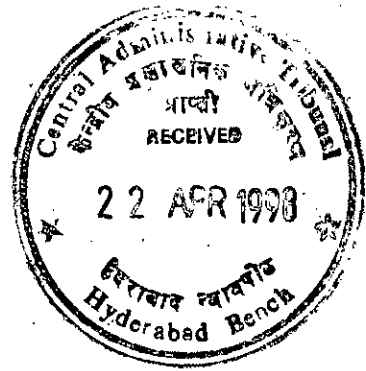

Assistant Commercial Manager
B. C. Railway, Secunderabad (B. C.)
B. C. Railway, Secunderabad (B. C.)


Senior Divisional Commercial Manager
Secunderabad (B. C.)
Secunderabad (B. C.)

In the Central Administrative
Tribunal, Hyderabad.

MA 114/98

in
OA 922/95



Reply filed by Respondent

Filed by: D. Francis Paul
SC for Reply

Address:

D. F. Paul
SC for Reply
Secunderabad

on personal cause of action and on tort. A tort results from the breach of such duties which are not undertaken by the parties themselves but which are imposed by law. The Hon'ble Supreme Court in AIR 1988 S.C. 506 held that on the death of the plaintiff, the suit abates if claim is founded entirely on tort (para 15 of Judgement) as per Maxim - "Actio Personalis cum moritur persona".

In AIR 1978 Punjab and Haryana 272, it was held, that the death of the plaintiff during the pendency of the appeal in a personal action e.g. suit for declaration that the plaintiff's retirement was illegal abates and an application by the legal representatives for bringing them on record and for continuance of the appeal is not maintainable.

In a suit for damages against counsel, on the death of the plaintiff, the suit abates if the claim is founded entirely on tort, but survives if the claim is based entirely on contract - AIR 1988 SC 506. It is submitted that the disciplinary proceedings instituted by the department against the applicant constitute a personal ^{cause} ~~course~~ of action to the applicant and it does not survive to the LRs for agitating against it.


In view of the above legal position, the MA for setting aside the abatement of OA 922/95 is liable to be dismissed.

111) MA 116/98 to bring the LRs on record.

It is submitted that since the claim in this OA is founded entirely on tort and personal cause of action and in as much as the applicant expired during the pendency of the OA in a personal action, the OA to set aside the order of reversion as arbitrary, perverse etc. abates as held by the Hon'ble Supreme Court and hence this MA to bring the LRs of the deceased applicant on record to continue the OA is not maintainable.

In view of the foregoing, it is submitted that the MA 114/98 is legally not maintainable and is devoid of merit. It is therefore prayed that the Hon'ble Tribunal be pleased to dismiss the MA and dispose of the OA as abated.

Sworn and signed on this the
17th day of April 1998
at Secunderabad, Before me.


DEPONENT
Senior District Engineer
सिक्कराबाद (क) न. म. सेक्टर
Secunderabad, T. S. R. Railway
ATTESTOR.
सहायक वाणिज्य प्रबंधक
Assistant Commercial Manager
ए. न. सेक्टर, सिक्कराबाद (क) न. म. सेक्टर
ए. न. सेक्टर, सिक्कराबाद (क) न. म. सेक्टर

20/2/98

THE AIRWAY

बच केस/BENCH CASE

Name

for the applicant
in the order 2

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH; HYDERABAD.

MA is dismissed

M.A.No. 114 of 11998

IN

M.A.No. 1998.

HESR

HORN

J.S.

H.A.

in

OA NO. 922/95

19-3-98

Heard Mr. Siva for Mr. N.
Rama Nohan Rao for the applicant
and Mr. D.F. Paul for the
respondents.

Notice

take it after 4 weeks

To condone the delay of 356 days
in filing abatement Pet.

HESR
JP(S)

HORN
JP(D)

Mr. N. Ramanohan Rao
COUNSEL FOR THE APPLICANTS.

AND

Mr. D. Frances Paul
MR. ADDL. STANDING COUNSEL FOR C.G. RLYS.

ANNEXURE
Form of Index

List of papers in MA/~~CE/RE~~/No. 115/98 in CA.No. 922/98

Serial No of papers on records Part-I	Date of papers or Date of filling	Description of papers.	Remarks.
--	---	---------------------------	----------

2/1/98

Petition

Fair list case on tomorrow i.e.,
on 22.1.1998 before the HInd
Court.

Hyderabad District

In the Central Administrative
Tribunal: Additional Bench: at
Hyderabad

M.A.No. of 1998

in

O.A.No. 922 of 1995



statement

Set aside the Petition
....

M/s. Nooty Rama Mohana Rao,
K.S.V. Subba Rao,
Abhinand K Shavili, &
Siva.

Counsel for the Applicants.

Application filed U/R 18(3) of the Admn. Tribunal's Act, 1985

M.A.No. 115 of 1998

in

O.A.No. 922 of 1995

Between:-

Sri V. Rama Swamy (Since died) his LRs.

1. Mrs. R. Gnanapad, W/o. Sri V. Ramaswamy, 47 years,
Occ: House Wife, R/o. Hyderabad.
2. R. Deeba Suresh, S/o. Late V. Ramaswamy, 28 years,
Occ: Unemployee, R/o. Hyderabad.
3. R. Shalini Devi, D/o. Late Sri V. Ramaswamy, 24 years,
R/o. Hyderabad.
4. R. Ram Satish Kumar, S/o. Late Sri V. Ramaswamy,
22 years, R/o. Hyderabad.
5. R. Ram Sunder Rao, (being a minor), rep. by his mother
Smt. R. Gnanapad, W/o. Sri V. Ramaswamy, Occ: House Wife,
R/o. Hyderabad. ... Applicants

AND

1. The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial),
Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, (O/o. the
Divisional Railway Manager, Commercial Branch,
Secunderabad. ... Respondents

For the reasons and in the circumstances stated, in the affidavit filed in support of the LR Petition, the applicants herein pray that this Hon'ble Tribunal in the interests of Justice be pleased to set aside the abatement of the proceedings, if already abated, and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

Hyderabad,

Dated: 21.1.1998.


Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD.

M.A. NO. 115 OF 1998

IN

O.A. No. 922 OF 1995.

BETWEEN :

V. Ramaswamy (since died)

1. Mrs. R. Gnanapad |
2. R. Deeba Suresh |
3. R. Shalini Devi |
4. R. Ram Satish Kumar | LRs
5. R. Ram Sunder Rao |

.. APPLICANTS

A N D

The General Manager,
South Central Railway,
and two others

.. RESPONDENTS

REPLY STATEMENT FILED ON BEHALF OF RESPONDENTS

I, P. Seethapathi Rao s/o Venkatappaiah aged 57 years, occupation government service, residing at Secunderabad do hereby solemnly affirm and state as follows :

1. I am working as Sr. DM/S.C.Rly/Secunderabad and Respondent no.3 in the MAs and as such, I am well acquainted with the facts of the case. I am filing this reply statement on behalf of all the Respondents, as I have been authorised to do so.

2. It is submitted that the various averments made in the affidavit made by the applicant in support of the MAs are denied, save those that are specifically admitted hereunder.

3. It is submitted that the applicants filed the affidavit in support of the three MAs viz. i) MA 114/98 for delay condonation in filing the application to bring the LRs on record. ii) MA 115/98 to set aside the abatement of the OA if already abated. iii) MA 116/98 to permit the applicants herein to be brought on record in O.A.922/95 to prosecute the same.

4. It is submitted that the averments made by the applicant in support of the three MAs are untenable and devoid of merit for the following reasons :

1) MA 114/98 for delay condonation.

It is submitted that the Applicant in OA 922/95 expired on 29-10-96. In terms of Rule 18 of CAT (Procedure) Rules 1987 the LRs

[Signature]
Assistant Commercial Manager
S. V. Road, Secunderabad (A. C. R.)
(C. Railway, Secunderabad (F. G))


[Signature]
Senior Divisional Commercial Manager
Secunderabad (A. C. R.)
.....2


of the deceased applicant should have applied within ninety days of the date of death (29-10-96) for being brought on record as necessary parties. In as much as the LRs of the deceased applicant did not apply within ninety days, the proceedings in the OA 922/95 have abated after expiry of ninety days. The Applicants have come up with this MA for condoning the delay of more than one year in filing the petitions for setting aside the abatement order and to bring the LRs of the deceased applicant on record without furnishing any justifiable grounds and without furnishing day to day reasons for delay. The reasons mentioned for the delay are vague and without substance and cannot be accepted and the MA 114/98 is liable to be dismissed.

ii) MA 115/98 to set aside the abatement of the OA.

It is submitted that the MA is not maintainable in law and the abatement of the OA cannot be set aside. It is submitted that the applicant in OA 922/95 was punished by the Disciplinary Authority under D&A Rules, 1966 for assaulting one K. Prasad, SCI/SC on duty in the office of the Sr.DCM/SC, with the penalty of reversion from the grade of CGSR i.e. Rs.2000-3200 (RSRP) to the grade of CGC i.e. Rs.1400-2300 (RSRP) fixing his pay at Rs.1800/- P.M. for a period of two years with cumulative effect by order no.C/C/419/OS/AD/Chg/SNAG/94 dtd. 8-3-95/5-4-95. The said penalty was confirmed by the appellate authority by order no.C/C/419/OS/AD/Chg/SNAG/94 dt.22-6-95. Aggrieved by this punishment, the applicant filed OA 922/95 challenging the same. The OA is being contested by the Respondent, duly filing suitable reply. While the OA was pending for hearing, the applicant expired on 29-10-96, resulting in the abatement of the O.A.

It is submitted that the abatement of this O.A. cannot be set aside under law since the claim in this case is founded entirely on personal cause of action and on tort. A tort results from the breach of such duties which are not undertaken by the parties themselves but which are imposed by law. The Hon'ble Supreme Court in AIR 1988 S.C. 506 held that on the death of the plaintiff, the suit abates if claim is founded entirely on tort (para 15 of Judgement) as per Maxim - "Actio Personalis cum morte personae".


Senior Divisional Officer
C. I. 234, 3rd Floor (1st Flr)
A. C. Railway, Secunderabad (D G)

...3

Senior Divisional Officer
C. I. 234, 3rd Floor (1st Flr)
A. C. Railway, Secunderabad (D G)

In the Central Administrative
Tribunal, Hyderabad

MA 115/98

in
CA 922/95



Reply filed by Respondent

Filed by: D. Francis Paul
SC for Reply

Address

D. F. Paul
SC for Reply
Secunderabad

50/2/98

for the applicant

Now

~~in the file~~

RAILWAY बेंच केस/BENCH
CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH; HYDERABAD.

MA

M.A.No. 115 of of 11998

IN

O.A.No. 922/95

H.S.P.
(T)

H.R.V.
(R)

19-3-98

Heard Mr. Siva for Mr. v.
Rama Mohan Rao for the applicant
and Mr. D.F. Paul for the
respondents.

Notice

list it after if needed.

To Set aside the abatement

H.S.P.
(M.T.)

H.R.V.
(M.D.)

Mr. N. Rama Mohan Rao

COUNSEL FOR THE APPLICANTS.

AND

Mr. D. F. Paul

MR. ADDL. STANDING COUNSEL FOR C.G. RLYS.

29-10-96

28-1-97

ANNEXURE
Form of INDEX

List of papers in MA/~~EP/PP~~ No. 116 /98 in OA. No. 922/95

Serial No. of papers on record Part -1	Date of papers or Date of filling	Description of papers	Remarks
---	---	--------------------------	---------

21/1/98

Petition

Back list case on tomorrow i.e.
on 22.1.1998 before the High
Court

Hyderabad District

In the Central Administrative
Tribunal Additional Bench at
Hyderabad

M.A.No. of 1998
in
O.A.No. 922 of 1995

L.R. Petition
.....

M/s. Rooty Rama Mohana Rao,
K.S.V. Subba Rao,
Abhinand K Shevili, &
Siva.

Counsel for the Applicants.

(18)

Application filed U/R 5(5) of the Adm. Tribunal's Act, 1985

M.A.No. 116 of 1998

in

O.A.No. 922 of 1995

Between:-

Sri V. Rama Swamy (Since died) his LRs.

1. Mrs. R. Gnanapad, W/o. Sri V. Ramaswamy, 47 years,
Occ: House wife, R/o. Hyderabad.
2. R. Deeba Suresh, S/o. Late V. Ramaswamy, 28 years,
Occ: Unemployed, R/o. Hyderabad.
3. R. Shalini Devi, D/o. Late Sri V. Ramaswamy, 24 years,
R/o. Hyderabad.
4. R. Ram Satish Kumar, S/o. Late Sri V. Ramaswamy,
22 years, R/o. Hyderabad.
5. R. Ram Sunder Rao, (being a minor), rep. by his mother
Smt. R. Gnanapad, W/o. Sri V. Ramaswamy, Occ: House
wife, R/o. Hyderabad. ... Applicants

AND

1. The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial),
Sanchalan Bhevan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o. the
Divisional Railway Manager, Commercial Branch,
Secunderabad. ... Respondents

For the reasons and in the circumstances stated,
in the affidavit filed in support of the LR petition, the
Applicants herein pray that this Hon'ble Tribunal in the
interests of Justice be pleased to permit the Applicants
to be brought on record in O.A.No.922 of 1995, and prosecute
the same, and pass such other and further order or orders
as are deemed fit and proper in the circumstances of the
case.

Hyderabad,

Dated: 21-1-1998.


Counsel for the Applicants.

In the Central Administrative Tribunal: Addl. Bench at Hyderabad

M.A.No. 116 of 1998

in

O.A.No. 922 of 1995

Between:-

Mrs. R. Ganespad and 4 others. Applicants

AND

The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad, and 2 others... Respondents

Affidavit of Mr. R. Ram Satish Kumar

.....

I, R. Ram Satish Kumar, S/o. Late Sri V. Rama Swamy,
aged about 22 years, R/o. Hyderabad, do hereby sincerely
and solemnly swear on oath and state as follows:-

1. I am the 4th Applicant in this Miscellaneous
Application and as such I am well acquainted with the
facts of the case. I am deposing to this Affidavit on
my behalf and also on behalf of the other applicants herein
as I have been authorised by them to do so.

2. I respectfully submit that my father Late Sri
V. Ramaswamy who was working as a Chief Goods Supervisor,
suffered a massive heart attack and he was advised to undergo
treatment at Railway Hospital, Perambur, Tamil Nadu. He
expired at the Hospital on the 29th day of October, 1996.
He was cremated at Tiruchevapalli, his native place, all
religious rites were performed at his native place and
after the religious rites were performed we returned to
Hyderabad in the month of November, 1996.

3. I further submit on coming to Hyderabad I approached
the authorities at South Central Railway for release of the
benefits that are liable to be paid to my father Late Sri V.
Ramaswamy. When I had been to the office of the respondents.

1st page:-

Corrections:-

Deponent

my father's friends have informed me that my father has filed an Original Application in the Hon'ble Central Administrative Tribunal and is still pending. On obtaining the details from the office of the Respondents, I approached the counsel of my father who informed me that Late Sri V. Ramaswamy has challenged the orders of Respondent No.3 in rejecting the appeal against the penalty of reduction of grade through order No.C/a/419/OS/AO/Chg/SNAG/94, Dated: 22.6.1995 and consequent order of reversion through O.O.No.59/Comml/DRM/95, Dt. 31.5.1995, by way of O.A.No. 922 of 1995. This O.A. was admitted on 7.8.1995 and respondents were asked to file a reply.

4. I respectfully submit that I was advised that on the penalty imposed as my father would adversely affect the quantum of terminal/pensionary benefits it is necessary to bring the L.Rs. as record to contest the above O.A. I was further advised that the Death Certificate also should be annexed to the petitioner. Thus, I had to go to Madras again to obtain the death Certificate as my father has expired at Railway Hospital, Perambur. Thus there was a delay in moving this application for bringing the LRs. as record. I submit that the delay is neither wanton nor wilful but it occasioned only due to the fact that we were not informed by my father that a case is pending on the file of this Hon'ble Tribunal and also there was some delay in obtaining the Death Certificate. Thus this Application is moved for bringing the LRs. on Record.

5. Hence it is prayed that this Hon'ble Tribunal in the interests of Justice be pleased to :-

(i) condone the delay of 330 days in filing the application for bringing the LRs on records;

2nd page:-
Corrections:-

Fairlist case on tomorrow
i.e. on 22/1/98 before the
IIrd Court

Hyd (C.D.T)

In the Central Admn.
Tribunal: additional bench
at Hyd

MA No

198

in

O.A No.

922

198

L.R. Petition



Ms. Ms. Kama Mohana Rao
K.S.V. Subba Rao

Counsel for the Applicant

(ii) set aside the abatement of the proceedings, if already abated, and

(iii) permit the applicants to be brought on record in O.A. No.922 of 1995 and prosecute the same,

and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

Solemnly affirmed at Hyderabad, on this the 23rd day of March 1997, and signed his name in my presence.

3rd and last page:-

Corrections:-

Deponent

Before Me

Advocate:Hyderabad

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD

M.A. No. 116 OF 1998

IN

O.A. NO. 922 OF 1995

BETWEEN :

V. Ramaswamy (since died)

1. Mrs. R. Gnanapad
2. R. Deeba Suresh
3. R. Shalini Devi
4. R. Ram Satish Kumar
5. R. Ram Sundar Rao

LRs

.. APPLICANTS

A N D

The General Manager,
South Central Railway,
and two others

.. RESPONDENTS

REPLY STATEMENT FILED ON BEHALF OF RESPONDENTS

I, P. Seethapathi Rao s/o Venkatappaiah aged 57 years, occupation government service, residing at Secunderabad do hereby solemnly affirm and state as follows :

1. I am working as Sr.DCM/S.C.Rly/Secunderabad and Respondent no.3 in the MAs and as such, I am well acquainted with the facts of the case. I am filing this reply statement on behalf of all the Respondents, as I have been authorised to do so.
2. It is submitted that the various averments made in the affidavit made by the applicant in support of the MAs are denied, save those that are specifically admitted hereunder.
3. It is submitted that the Applicants filed the affidavit in support of the three MAs, viz. i) MA 114/98 for delay condonation in filing the application to bring the LRs on record ii) MA 115/98 to set aside the abatement of the OA if already abated. iii) MA 116/98 to permit the applicants herein to be brought on record in OA 922/95 to prosecute the same.
4. It is submitted that the averments made by the applicants in support of the three MAs are untenable and devoid of merit for the following reasons :

i) MA 114/98 for delay condonation.

It is submitted that the Applicant in OA 922/95 expired on 29-10-96. In terms of Rule 18 of CAT (Procedure) Rules 1987 the LRs

~~Assistant Commercial Manager~~

~~P. N. Reddy, Secunderabad~~

~~G. Railway Secunderabad~~

P.S.
Senior Divisional Commercial Officer
Secunderabad (S.B.)

of the deceased applicant should have applied within ninety days of the date of death (29-10-96) for being brought on record as necessary parties. In as much as the IRs of the deceased applicant did not apply within ninety days, the proceedings in the OA 922/95 have abated after expiry of ninety days. The Applicants have come up with this MA for condoning the delay of more than one year in filing the petitions for setting aside the abatement order and to bring the RS of the deceased applicant on record without furnishing any justifiable grounds and without furnishing day to day reasons for delay. The reasons mentioned for the delay are vague and without substance and cannot be accepted and the MA 114/98 is liable to be dismissed.


ii) MA 115/98 to set aside the abatement of the OA.

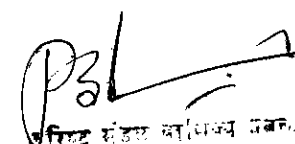
It is submitted that the MA is not maintainable in law and the abatement of the OA cannot be set aside. It is submitted that the applicant in OA 922/95 was punished by the Disciplinary Authority under D&A Rules, 1966 for assaulting one K. Prasad, SCI/SC on duty in the office of the Sr.DCI/SC, with the penalty of reversion from the grade of CGSR i.e. Rs.2000-3200 (RSRP) to the grade of CGC i.e. Rs.1400-2300 (RSRP) fixing his pay at Rs.1800/- P.M. for a period of two years with cumulative effect by order no. C/C/419/OS/AD/Chg/SNAG/94 dt.8-3-95/5-4-95. The said penalty was confirmed by the Appellate authority by order no. C/C/419/OS/AD/Chg/SNAG/94 dt. 22-6-95. Aggrieved by this punishment, the applicant filed OA 922/95 challenging the same. The OA is being contested by the Respondent, duly filing suitable reply. While the OA was pending for hearing, the applicant expired on 29-10-96, resulting in the abatement of the O.A.

It is submitted that the abatement of this O.A. cannot be set aside under law since the claim in this case is founded entirely on personal cause of action and tort. A tort results from the breach of such duties which are not undertaken by the parties themselves but which are imposed by law. The Hon'ble Supreme Court in AIR 1988 S.C.506 held that on the death of the plaintiff, the suit abates if claim is founded entirely on tort (para 15 of Judgement) as per Maxim - "Actio Personalis cum moritur persona".

In AIR 1978 Punjab and Haryana 272, it was held, that the death of the plaintiff during the pendency of the appeal in a personal action

....3

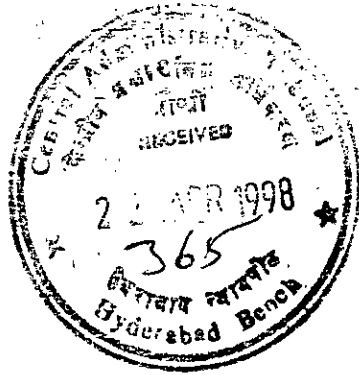

Assistant Commercial Manager
R. K. Sharma, (R. K. 11)
R. G. Railway, Secunderabad (H. G.)


Senior Divisional Commercial Manager
Secunderabad (H. G.)

In the Central Administrative
Tribunal, Hyderabad

MA 116/98

OA 922/95



Reply filed by Respondent

Filed by: D. Francis Paul
SC for Reply

Recd

S.P.S.
22/4/98

Address:

D. F. Paul
SC for Reply
Secunderabad

22/4/98
22/4/98

e.g. suit for declaration that the plaintiff's retirement was illegal abates and an application by the legal representatives for bringing them on record and for continuance of the appeal is not maintainable.

In a suit for damages against counsel, on the death of the plaintiff, the suit abates if the claim is founded entirely on tort, but survives if the claim is based entirely on contract - AIR 1988 SC 506. It is submitted that the disciplinary proceedings instituted by the department against the applicant constitute a personal ~~cause~~ ^{Cause} of action to the applicant and it does not survive to the LRs for agitating against it.


In view of the above legal position, the MA for setting aside the abatement of OA 922/95 is liable to be dismissed.

iii) MA 116/98 to bring the LRs on record.

It is submitted that since the claim in this OA is founded entirely on tort and personal cause of action and in as much as the applicant expired during the pendency of the OA in a personal action, the OA to set aside the order of reversion as arbitrary, perverse etc. abates as held by the Hon'ble Supreme Court and hence this MA to bring the LRs of the deceased applicant on record to continue the OA is not maintainable.

In view of the foregoing, it is submitted that the MA 116/98 is legally not maintainable and is devoid of merit. It is therefore prayed that the Hon'ble Tribunal be pleased to dismiss the MA and dispose of the OA as abated.

Sworn and signed on this the
17th day of April 1998
at Secunderabad, before me.


DEPONENT

वरिष्ठ महाल वाणिज्य अधिकारी
Senior Divisional Commercial Manager
सिकंदरानाब (बला) द म रेलवे
Secunderabad (B G) S. C. Railway


ATTESTER.

सहायक वाणिज्य अधिकारी
Assistant Commercial Manager
ए. म. रेलवे, सिकंदरानाब (ब. ग.)
S. C. Railway, Secunderabad (B G)

20/2/98

None

for the applicant
either side

Retained

दुप्लीकेट/Duplicate

01/9-3-98

RAILWAY

बेच केस/BENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

M.A.No. 116 of 1998

IN

O.A.No. 922 1998

MA is dismissed

HESJP
M(J)

HERN
M(A)

19-3-98

Heard Mr. Siva for Mr. N.
Ram Mohan Rao for the applicant
and Mr. D. F. Paul for the
respondent

Notice

to be filed after 4 weeks.

To bring L.R. on record

AISSOP
M(C)

APRN
M(B)

29.10.96

29.12.96

Mr. N. Ram Mohan Rao

COUNSEL FOR THE APPLICANTS.

AND

Mr. D. F. Paul

EX-ADDL. STANDING COUNSEL FOR C.G. RLYS.

ANNEXURE
FORM OF INDEX

List of papers in MA/~~CP/RE~~

331 /98 in OA.NO. 1314 /98.

Serial No. of papers on record part-I	Date of papers or Date of filing	Description of papers	Remarks
	20/4/98	Petition	3.5 copy

VERIFICATION

I, R.Nagarjuna Kumar, S/o. R.Vidyananda Rao, aged about 30 years,

Occ.: Un-employee, R/o. Hyderabad, the above named applicant, do hereby declare that the contents of the application are true to the best of my knowledge and belief and declare that I have not ~~any~~ suppressed any material facts.

Hence, Verified.

Hyderabad,

27-4-1998.

R. Nagarjuna Kumar
APPLICANT

U/r 8 (3)

In the Central Administrative Tribunal : Bench

At Hyderabad

M. A.No. 331 of 1998

in

O.S.No. 1314 of 1997

Between:

R.Nagarjuna Kumar, S/o. R.Vidyananda Rao,
aged about 30 years, Occ.: Un-employee,
R/o.

... Appellant

and

1. The Secretary, The Indian Council for
Agricultural Research, Krishi Anusandhan
Bhavan, Pusa, New Delhi-110 001.

2. The Secretary, Agricultural Scientists
Recruitment Board, Krishi Anusandhan
Bhavan, Pusa, New Delhi-110 001.

... Respondents

...


Facts of the case:-

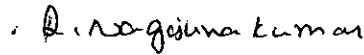
The applicant herein filed the above O.A.No.1314 of 1997, questioning the non-selection of the applicant for the post of Scientist of Agricultural Research Service, in computer wing in the respondent organisation. The next notification was issued for filling the posts in the said wing. Written test, viva-voce also was completed for the next batch candidates and the results are going to be published before this month ending. This hon'ble Court granted six weeks time for filing counter on 3.10.1997. On a letter addressed the Registrar, the case is listed before the Deputy Registrar two times and the counsel appearing for the respondents are taking further time for counter and dodging the matter. If all the vacancies were filled up, the above O.A. itself will become in-fructuous. As such there is urgency in the matter.

Prayer:- For the reasons stated above the applicant herein prays that this Hon'ble Tribunal may be pleased to reserve one post of Scientist of Agricultural Research Service in Computer Wing in the respondents organisation pending disposal of the main O.A. and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Hyderabad,

27.4.1998.


Counsel for Applicant


Applicant

Direction Peta.

In the Central Administrative Tribunal

Bench : At Hyderabad :

M. A.No. of 1998

in

O. A.No. 1314 of 1997

Between:

R.Nagarjuna Kumar

... Applicant

and

The Secretary, The Indian Council
for Agricultural Research,
New Delhi and another

... Respondents

*Recd
M. Anasuya
Secy CSRC
29/4/98*

Miscellaneous Application



Filed by:
Smt A. Anasuya
Counsel for Applicant.

*verified
29/4/98*

मूल/ORIGINAL

साधारण/GENERAL

बेंच केस/BENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD

M.A.No. 331 of 1998

IN

O.A.No. 1314 of 1997

Direction Petition

A. Anasuya

COUNSEL FOR THE APPLICANTS.
AND

Mr. *V. Bhinam*

Sr.ADDL. STANDING COUNSEL

ANNEXURE
FORM OF INDEX

MA.No. 116/98 m.

List of papers in MA/~~GP~~RP.No. 293/98 in OA. No. 922/98

Serial No. of papers on record Part-I	Date of papers or Date of filing	Description of papers	Remarks
--	--	-----------------------------	---------

10/3/98.

Petition
&
Affidavit

Application filed U/R

of the Admn. Tribunal's Act, 1985

M.A.No. 223 of 1998

in

M.A.No. 116 of 1998

in

O.A.No. 922 of 1995

Between:-

Sri V.Rama Swamy (since died) his LRs,

1. Mrs. R.Chanapad, W/o. Sri V.Ramaswamy, 47 years,
Occ: House wife, R/o. Hyderabad.
2. R.Deeba Suresh, S/o. Late V.Ramaswamy, 28 years,
Occ: Unemployed, R/o. Hyderabad.
3. R.Shalini Divi, D/o. Late Sri V.Ramaswamy, 24 years,
R/o. Hyderabad.
4. R.Ram Satish Kumar, S/o. Late Sri V.Ramaswamy,
22 years, R/o. Hyderabad.
5. R.Ram Sunder Rao, (being a minor), rep. by his mother
Smt. R.Chanapad, W/o. Sri V.Ramaswamy, Occ: House Wife,
R/o. Hyderabad. ... Applicants

AND

1. The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial),
Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o. the
Divisional Railway Manager, Commercial Branch,
Secunderabad. ... Respondents

For the reasons and in the circumstances stated, in the accompanying affidavit, the applicants herein prays that this Hon'ble Tribunal may be pleased to restore the above M.A.No. 116/98, dt. 20.2.1998, and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

Hyderabad,

dt. 4.3.1998.


Counsel for the Applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADDITIONAL BENCH: AT
HYDERABAD

M.A.NO. 223 OF 1998

in

M.A.Nos. 114, 115 and 116 of 1998

in

O.A.No. 922 of 1995

Between:-

V. Ramaswamy.

... Applicant

AND

Union of India, rep. by its General Manager,
South Central Railway, Secunderabad and 2 others... Respondents

Affidavit of Siva, Counsel for the Applicant

I, Siva, S/o, Late G.L. Narasiah, aged about 34 years, Advocate
R/o, Hyderabad, do hereby swear on oath and state and affirm as
follows:-

1. I am the advocate on Record in O.A.No. 922 of 1995 instituted
by Sri V. Ramaswamy and as such I am acquainted with the facts.

2. The above O.A. was instituted questioning the order
imposing a penalty of reduction of grade through orders No. C/G/419/
OS/AD/Chg./SNAG/94, Dt. 22.6.1995 of the 3rd respondent and the
consequential reversion order.

3. The Applicant has suffered a massive Cardiate arrest and
expired on 29-10-1996. As the order challenged has the effect of
reducing the terminal benefits and pension payable, the Legal
Representatives were sought to be brought on record. Since the
information that the applicant instituted the above O.A. was
known to the LRs, in order to obtain the Death Certificate and
fulfil other formalities there was some delay in moving an
application in bring the LRs on record. Accordingly 3 MAs were

1st page:-

Corrections:-

Attestor

Deponent

moved (i) M.A.No.114/1998 for condonation of Delay, (ii) M.A.No. 115/98 for setting aside the abatement of the proceedings if already abated and (iii) 116/98 for bringing the Legal Representatives on Record.

4. The above MAs were listed on 30th February 1998. I have been asked to attend this case. However in view of the fact that there was a matter listed before special Bench in Hon'ble High Court and I was assisting my senior in that case, I could not attend to the MAs listed before this Hon'ble Tribunal. The MAs were dismissed for default.

5. I submit that I regularly practice in this Hon'ble Tribunal and the absence when the matter was called was not wanton or deliberate. I also submit that the applicants in the MA could be put to loss and hardship if the MAs are not restored.

Hence it is prayed that this Hon'ble Tribunal may be pleased to restore the above M.As Nos. 114/98, 115/98 and 116/98, Dt. 20.2.1998, and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

Solemnly affirmed at Hyderabad,
on this the 1st day of March, 1998,
and signed his name in my presence.

Deponent

Before Me

2nd and last page:-

Corrections:-

Advocate:Hyderabad

Fair list case on today before
the Hnd Court 44th Item.

Hyderabad District

In the Central Administrative
Tribunal: Additional Bench: at
Hyderabad

M.A.No. of 1998

in

M.A.No. 116 of 1998

in

O.A.No. 922 of 1995



Restoration Petition

....

M/s. Nooty Rama Mohana Rao,
K.S.V. Subba Rao,
Abhinand K Shavili, &
Siva.

Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH: HYDERABAD

M.A.NO. 116 of 1998 in O.A.No.922 of 1995

Between:-

Dated:20-2-1998

Sri V.Rama Swamy
Mrs. R.Gnanapad
R.Deeba Suresh
R.Shalini Devi
R.Ram Satish Kumar
R.Ram Sunder Rao.

... Applicants

And

1. The General Manager, South Central Railway,
Secunderabad.
2. The Additional Railway Manager
(Commercial), Sanchalan Bhavan,
2nd Floor, Secunderabad.
3. The Senior Divisional Commercial
Manager, O/o. The Divisional Railway
Manager, Commercial Branch,
Secunderabad.

...

Respondents

Counsel for the Applicants : Mr. N.Rama Mohana Rao

Counsel for the Respondents: : Mr. D.F.Paul.

CORAM:-

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

THE HON'BLE MR. B.S.JAI PARAMESWAR : MEMBER (J)

THE TRIBUNAL MADE THE FOLLOWING ORDER:-

None on either side. M A is dismissed.

Sd/- x x x x x x x x
Deputy Registrar

// True Copy //

MA. 223/98 in MA. 116/98 in

OA. 922/95

19-3-98.

Heard Mr Siva for

Mr. N. Rama Mohan Rao for
the applicant and Mr. D.F.
Paul for the respondents.

The I.Rs of the
deceased applicant has
filed this restoration petition
in MA. 116/98

For the reasons stated
in the affidavit we restored
the MA. 116/98.

Thus the MR is
disposed of.

HBS SP
M(S)

HRRA
M(B)

RAILWAY

BENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

M.A.No. 223 of 11998
IN

M.A.No. 116 1998.

OA NO. 922/95

Restoration Petition.

Mr. N. Rama Mohan Rao

COUNSEL FOR THE APPLICANTS.

AND

Mr. D. Foaney Paul

Mr. ADDL. STANDING COUNSEL FOR C.G. RLYS.

ANNEXURE

FORM OF INDEX

MA No 116/98 W.

List of papers in MA/SP/EP No. 223 /98 in OA No. 922/98

Serial No. of papers
on record Part-I

Date of papers
or
Date of filing

Description
of
papers

Remarks

10/3/98

Petition &
Affidavit 3-S. copy

Application filed U/R of the Admn.Tribunal's Act, 1985

M.A.No. 223 of 1998

in

M.A.No. 116 of 1998

in

O.A.No. 922 of 1995

Between:-

Sri V.Rama Swamy (Since died) his LRs,

1. Mrs. R.Gnanapad, W/o. Sri V.Ramaswamy, 47 years,
Occ: House wife, R/o. Hyderabad.
2. R.Deeba Suresh, S/o. Late V.Ramaswamy, 28 years,
Occ: Unemployee, R/o. Hyderabad.
3. R.Shalini Divi, D/o. Late Sri V.Ramaswamy, 24 years,
R/o. Hyderabad.
4. R.Ram Satish Kumar, S/o. Late Sri V.Ramaswamy,
22 years, R/o. Hyderabad.
5. R.Ram Sunder Rao, (being a minor), rep. by his mother
Smt. R.Gnanapad, W/o. Sri V.Ramaswamy, Occ: House Wife,
R/o. Hyderabad. ... Applicants

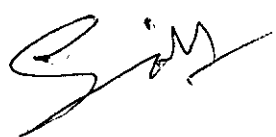
AND

1. The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial),
Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o. the
Divisional Railway Manager, Commercial Branch,
Secunderabad. ... Respondents

For the reasons and in the circumstances stated, in the accompanying affidavit, the applicants herein prays that this Hon'ble Tribunal may be pleased to restore the above M.A.No. 116/98, Dt. 20.2.1998, and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

Hyderabad,

Dt. 4.3.1998.


Counsel for the Applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADDITIONAL BENCH: AT
HYDERABAD

M.A.NO. 223 OF 1998

in

M.A.Nos. 114, 115 and 116 of 1998

in

O.A.No. 922 of 1995

Between:-

V.Ramaswamy.

... Applicant

AND

Union of India, rep. by its General Manager,
South Central Railway, Secunderabad and 2 others... Respondents

Affidavit of Siva, Counsel for the Applicant

I, Siva, S/o. Late G.L.Narasaiah, aged about 34 years, Advocate
R/o. Hyderabad, do hereby swear on oath and state and affirm as
follows:-


1. I am the advocate on Record in O.A.No.922 of 1995 instituted
by Sri V.Ramaswamy and as such I am acquainted with the facts.

2. The above O.A. was instituted questioning the order
imposing a penalty of reduction of grade through orders No.C/6/419/
OS/AD/Chg./SNAG/94, Dt. 22.6.1995 of the 3rd respondent and the
consequential reversion order.

3. The Applicant has suffered a massive Cardiate asrest and
expired on 29-10-1996. As the order challenged has the effect of
reducing the terminal benefits and pension payable, the Legal
Representatives were sought to be brought on record. Since the
information that the applicant instituted the above O.A. was
known to the LRs, in order to obtain the Death Certificate and
fulfil other formalities there was some delay in moving an
application in bring the LRs on record. Accordingly 3 MAs were

1st page:-
Corrections:-


Attestor


Deponent

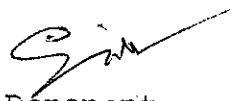
moved (i) M.A.No.114/1998 for condonation of Delay, (ii) M.A.No. 115/98 for setting aside the abatement of the proceedings if already abated and (iii) 116/98 for bringing the Legal Representatives on Record.

4. The above MAs were listed on 30th February 1998. I have been asked to attend this case. However in view of the fact that there was a matter listed before special Bench in Hon'ble High Court and I was assisting my senior in that case. I could not attend to the MAs listed before this Hon'ble Tribunal. The MAs were dismissed for default.

5. I submit that I regularly practice in this Hon'ble Tribunal and the absence when the matter was called was not wanton or deliberate. I also submit that the applicants in the MA could be put to loss and hardship if the Masx are not restored.

Hence it is prayed that this Hon'ble Tribunal may be pleased to restore the above M.As Nos. 114/98, 115/98 and 116/98, Dt. 20.2.1998, and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

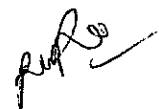
Solemnly affirmed at Hyderabad,
on this the 1st day of March, 1998,
and signed his name in my presence.

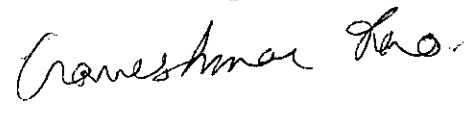

Deponent

Before Me

2nd and last page:-

Corrections:-


Advocate: Hyderabad

(P) 

Restoration Petn.

Fair list case on today before
the IIInd Court 44th Item.

Hyderabad District

In the Central Administrative
Tribunal: Additional Bench: at
Hyderabad

M.A.No. of 1998

in

M.A.No. 116 of 1998

in

O.A.No. 922 of 1995



Restoration Petition

....

*Read copy
wh
SC filed
10/3/98*

M/s. Nooty Rama Mohana Rao,
K.S.V.Subba Rao,
Abhinand K Shavili, &
Siva.

Counsel for the Applicants.

*Notified
10/3/98*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH: HYDERABAD

M.A.NO. 116 of 1998 in O.A.No.922 of 1995

Between:-

Dated:20-2-1998

Sri V.Rama Swamy
Mrs. R.Gnanapad
R.Deeba Suresh
R.Shalini Devi
R.Ram Satish Kumar
R.Ram Sunder Rao.

... Applicants

And

1. The General Manager, South Central Railway,
Secunderabad.
2. The Additional Railway Manager
(Commercial), Sanchalan Bhavan,
2nd Floor, Secunderabad.
3. The Senior Divisional Commercial
Manager, O/o. The Divisional Railway
Manager, Commercial Branch,
Secunderabad.

...

Respondents

Counsel for the Applicants : Mr. N.Rama Mohana Rao

Counsel for the Respondents: : Mr. D.F.Paul.

CORAM:-

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

THE HON'BLE MR. B.S.JAI PARAMESWAR : MEMBER (J)

THE TRIBUNAL MADE THE FOLLOWING ORDER:-

None on either side. M A is dismissed.

Sd/- x x x x x x x x
Deputy Registrar

// True Copy //



MA. 223/98 in MA. 116/98 in

OA. 922/95.

19-3-98.

Heard Mr. Siva for
Mr. N. Rama Mohan Rao for
the applicant and Mr. D.F.
Paul for the respondents.

The IRs of the
deceased applicant ~~has~~ have
filed this restoration petition
in MA. 116/98.

For the reasons stated
in the affidavit we restored
the MA. 116/98.

Thus the MA is
disposed of.

R
HBSJP
M(LJ)

A
HRRN
M(B)

HRRN/HBSJP

RAILWAY

बेच केस/BENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

M.A.No. 223 of 11998

IN

M.A.No. 116 1998.

OA.No. 922/95

Restoration petition.

Mr. N. Rama Mohan Rao
COUNSEL FOR THE APPLICANTS.

AND

Mr. D. Francis Paul
Mr. ADDL. STANDING COUNSEL FOR C.G. RLYS.

ANNECURE
Form of INDEX

List of papers in MA/~~EP/TP~~ No. 115 /98 in OA. No. 922/95

Serial No. of papers on record Part -1	Date of papers or Date of filling	Description of papers	Remarks
---	---	--------------------------	---------

	2/1/98	Petition	3-S. copy
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Copy sent by post to
Sri D. Francis Paul
S/c for Respondents
Under Certificate of
posting

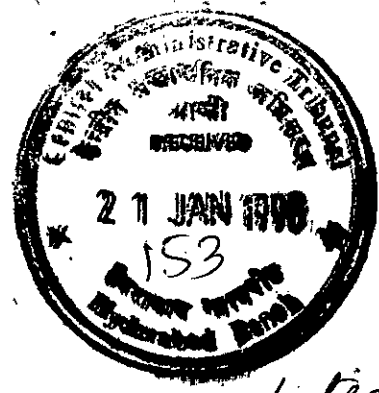
Copy sent to the Apphc

Set aside the
Fair list case on tomorrow i.e.,
on 22.1.1998 before the IIInd
Court.

Hyderabad District

In the Central Administrative
Tribunal: Additional Bench: at
Hyderabad

M.A.No. of 1998
in
O.A.No. 922 of 1995



abatement
Set aside the Petition
....

M/s. Nooty Rama Mohana Rao,
K.S.V. Subba Rao,
Abhinand K Shavili, &
Siva.

Counsel for the Applicants.

Handwritten signature/initials

Application filed U/R (3) of the Admn. Tribunal's Act, 1985

M.A.No. 115 of 1998

in

O.A.No. 922 of 1995

Between:-

Sri V. Rama Swamy (Since died) his LRs.

1. Mrs. R. Gnanapad, W/o. Sri V. Ramaswamy, 47 years,
Occ: House Wife, R/o. Hyderabad.
2. R. Deeba Suresh, S/o. Late V. Ramaswamy, 28 years,
Occ: Unemployed, R/o. Hyderabad.
3. R. Shalini Devi, D/o. Late Sri V. Ramaswamy, 24 years,
R/o. Hyderabad.
4. R. Ram Satish Kumar, S/o. Late Sri V. Ramaswamy,
22 years, R/o. Hyderabad.
5. R. Ram Sunder Rao, (being a minor), rep. by his mother
Smt. R. Gnanapad, W/o. Sri V. Ramaswamy, Occ: House Wife,
R/o. Hyderabad. ... Applicants

AND

1. The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial),
Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, (O/o. the
Divisional Railway Manager, Commercial Branch,
Secunderabad. ... Respondents

For the reasons and in the circumstances stated, in the affidavit filed in support of the LR Petition, the applicants herein pray that this Hon'ble Tribunal in the interests of Justice be pleased to set aside the abatement of the proceedings, if already abated, and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

Hyderabad,

Dated: 21.1.1998.


Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD.

M.A. NO. 115 OF 1998

IN

O.A. No. 922 OF 1995.

BETWEEN :

V. Ramaswamy (since died)

1. Mrs. R. Gnanapad
2. R. Deeba Suresh
3. R. Shalini Devi
4. R. Ram Satish Kumar
5. R. Ram Sunder Rao

LRs

.. APPLICANTS

A N D

The General Manager,
South Central Railway,
and two others


.. RESPONDENTS


REPLY STATEMENT FILED ON BEHALF OF RESPONDENTS

L. P. Seethapathi Rao s/o Venkatappaiah aged 57 years, occupation government service, residing at Secunderabad do hereby solemnly affirm and state as follows :

1. I am working as Sr.DCM/S.C.Rly/Secunderabad and Respondent no.3 in the MAs and as such, I am well acquainted with the facts of the case. I am filing this reply statement on behalf of all the Respondents, as I have been authorised to do so.
2. It is submitted that the various averments made in the affidavit made by the applicant in support of the MAs are denied, save those that are specifically admitted hereunder.
3. It is submitted that the applicants filed the affidavit in support of the three MAs viz. i) MA 114/98 for delay condonation in filing the application to bring the LR's on record. ii) MA 115/98 to set aside the abatement of the OA if already abated. iii) MA 116/98 to permit the applicants herein to be brought on record in O.A.922/95 to prosecute the same.
4. It is submitted that the averments made by the applicant in support of the three MAs are untenable and devoid of merit for the following reasons :
 - i) MA 114/98 for delay condonation.

It is submitted that the Applicant in OA 922/95 expired on 29-10-96. In terms of Rule 18 of CAT (Procedure) Rules 1987 the LR's


सहायक वाणिज्य प्रबन्धक
Assistant Commercial Manager
ए. व. मेडके, सिकंदराबाद (ब. ला)
S. C. Railway Station, Secunderabad


.....2

Senior Divisional Commercial Manager
सिकंदराबाद (बला) द. व. रेल. ला.
Secunderabad (B G) S. C. Railway


of the deceased applicant should have applied within ninety days of the date of death (29-10-96) for being brought on record as necessary parties. In as much as the LRs of the deceased applicant did not apply within ninety days, the proceedings in the OA 922/95 have abated after expiry of ninety days. The Applicants have come up with this MA for condoning the delay of more than one year in filing the petitions for setting aside the abatement order and to bring the LRs of the deceased applicant on record without furnishing any justifiable grounds and without furnishing day to day reasons for delay. The reasons mentioned for the delay are vague and without substance and cannot be accepted and the MA 114/98 is liable to be dismissed.

ii) MA 115/98 to set aside the abatement of the OA.

It is submitted that the MA is not maintainable in law and the abatement of the OA cannot be set aside. It is submitted that the applicant in OA 922/95 was punished by the Disciplinary Authority under D&A Rules, 1966 for assaulting one K. Prasad, SCI/SC on duty in the office of the Sr.DCM/SC, with the penalty of reversion from the grade of CGSR i.e. Rs.2000-3200 (RSRP) to the grade of CGC i.e. Rs.1400-2300 (RSRP) fixing his pay at Rs.1800/- P.M. for a period of two years with cumulative effect by order no.C/C/419/OS/AD/Chg/SNAG/94 dt. 8-3-95/5-4-95. The said penalty was confirmed by the appellate authority by order no.C/C/419/OS/AD/Chg/SNAG/94 dt.22-6-95. Aggrieved by this punishment, the applicant filed OA 922/95 challenging the same. The OA is being contested by the Respondent, duly filing suitable reply. While the OA was pending for hearing, the applicant expired on 29-10-96, resulting in the abatement of the O.A.

It is submitted that the abatement of this O.A. cannot be set aside under law since the claim in this case is founded entirely on personal cause of action and on tort. A tort results from the breach of such duties which are not undertaken by the parties themselves but which are imposed by law. The Hon'ble Supreme Court in AIR 1988 S.C. 506 held that on the death of the plaintiff, the suit abates if claim is founded entirely on tort (para 15 of Judgement) as per Maxim - "Actio Personalis cum morituro persona".


Assistant Commercial Manager
S. C. Railway, Secunderabad (B. G.)


Senior Divisional Commercial Manager
Secunderabad (B. G.)

In the Central Administrative
Tribunal, Hyderabad.

MA 115/98

in
OA: 922/95



Reply filed by Respondents

Filed by: D. Francis Paul
SC for Reply

Recd

DPV

22/4/98

Address:

D. F. Paul

SC for Reply

Secunderabad

copy is filed
22/4/98

In AIR 1978 Punjab and Haryana 272, it was held, that the death of the plaintiff during the pendency of the appeal in a personal action e.g. suit for declaration that the plaintiff's retirement was illegal abates and an application by the legal representatives for bringing them on record and for continuance of the appeal is not maintainable.

In a suit for damages against counsel, on the death of the plaintiff, the suit abates if the claim is founded entirely on tort, but survives if the claim is based entirely on contract - AIR 1988 SC 506. It is submitted that the disciplinary proceedings instituted by the department against the applicant constitute a personal ~~cause~~ ^{cause} of action to the applicant and it does not survive to the LRs for agitating against it.



In view of the above legal position, the MA for setting aside the abatement of OA 922/95 is liable to be dismissed.

iii) MA 116/98 to bring the LRs on record.

It is submitted that since the claim in this OA is founded entirely on tort and personal cause of action and in as much as the applicant expired during the pendency of the OA IN A PERSONAL action, the OA to set aside the order of reversion as arbitrary, perverse etc. abates as held by the Hon'ble Supreme Court and hence this MA to bring the LRs of the deceased applicant on record to continue the OA is not maintainable.

In view of the foregoing, it is submitted that the MA 116/98 is legally not maintainable and is devoid of merit. It is therefore prayed that the Hon'ble Tribunal be pleased to dismiss the MA and dispose of the OA as abated.

Sworn and signed on this the
17th day of April 1998
at Secunderabad, Before me.


DEPONENT
वरिष्ठ मंडल वाणिज्य प्रबंधक
Senior Divisional Commercial Manager
सिकंदराबाद (बला) एम. सी. रेल्वे
Secunderabad (B. C.) M. C. Railway

ATTESTOR.
तहायक वाणिज्य प्रबंधक
Assistant Commercial Manager
ए. सी. रेल्वे, सिकंदराबाद (ब. सी)
B. C. Railway, Secunderabad (B. C.)

मूल/ORIGINAL

रेलवे/RAILWAY

बेंच का/ENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

M.A.No.

IN

115

of 11998

~~10.2.98~~

~~10.2.98~~

OA NO,

922/95

20/2/98

CEJ

HRN
M(A)

17

read Mr. Siva for Mr. N.
Sham Rao for the applicant
and Mr. D.F. Paul for the
respondents.

Notice

list it after 4 weeks.

HR SJ
M(J)

HRN
M(B)

TO set aside the abatement

Notice in MA

16.4.98

or

24/3/98

Issued
25/3/98

Mr. N. Ramamohan Rao

COUNSEL FOR THE APPLICANTS.

AND

Mr. D. Frances Paul

Sr. ADDL. STANDING COUNSEL FOR C.G. RLYS.

ANNEXURE
Form of Index

MA. 115/9

List of papers in MA/~~114~~/No. 114/98 in DA.No. 92

Serial No of papers
on records Part-I

Date of papers
or
Date of filling

Description
of papers.

21/1/98

Petition 3

Reply returned
Atty Gen D.F.
Paul on 22/1/98

Copy sent by post to
Sri D. Francis Paul
S/E for Respondent
Under Certificate
of Posting.

Siva

Counsel for the Applicant

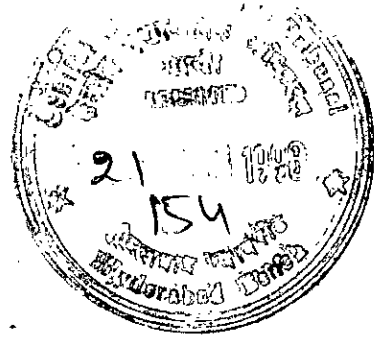
To condone the delay
of 356 days in filing
Fair list case on tomorrow i.e.,
on 22.1.1998 before the IInd
Court
abatement Petition
Hyderabad District

In the Central Administrative
Tribunal: Additional Bench: at
Hyderabad

M.A.No. of 1998

in

O.A.No. 922 of 1997



Condone Delay Petition
....

M/s. Nooty Rama Mohana Rao,
K.S.V. Subba Rao,
Abhinand K Shavili, &
Siva.

Counsel for the Applicants.

Handwritten signature and date: 12/1/98

Application filed U/R ¹¹⁴ of the Admn. Tribunal's Act, 1985.

M.A.No.

114 of 1998 WMA 115/98

in

O.A.No.

922

of 1995

Between:-

Sri V.Rama Swamy (Since died) his LRs.

1. Mrs. R.Gnanapad, W/o. Sri V.Ramaswamy, 47 years,
Occ: House Wife, R/o. Hyderabad.
2. R.Deeba Suresh, S/o. Late V.Ramaswamy, 28 years,
Occ: Unemployed, R/o. Hyderabad.
3. R.Shalini Devi, D/o. Late Sri V.Ramaswamy, 24 years,
R/o. Hyderabad.
4. R.Ram Satish Kumar, S/o. Late Sri V.Ramaswamy,
22 years, R/o. Hyderabad.
5. R.Ram Sunder Rao, (being a minor), rep. by his
mother Smt. R.Gnanapad, W/o. Sri V.Ramaswamy,
Occ: House Wife, R/o. Hyderabad. ... Applicants


AND

1. The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial),
Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o. the
Divisional Railway Manager, Commercial Branch,
Secunderabad. ... Respondents

For the reasons and in the circumstances stated, in the
accompanying ^{CR Petis} affidavit, the applicants herein pray that this
Hon'ble Tribunal in the interests of Justice be pleased to
condone the delay of ³⁵⁶ days in filing the application for
bringing the LRs on records, and pass such other and further
order or orders as are deemed fit and proper in the circumstances
of the case.

Hyderabad,

Dated: 21.1.1998


Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD.

M.A. NO. 114 OF 1998

IN

O.A. NO. 922 OF 1995

BETWEEN :

V. Ramaswamy (since died)

1. Mrs. R. Gnanapad
2. R. Deeba Suresh
3. R. Shalini Devi
4. R. Ram Satish Kumar
5. R. Ram Sundar Rao

LRs

.. APPLICANTS

A N D

The General Manager,
South Central Railway,
and two others

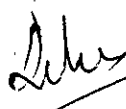
.. RESPONDENTS


REPLY STATEMENT FILED ON BEHALF OF RESPONDENTS

I, P. Seethapathi Rao s/o Venkatappaiah aged 57 years, occupation government service, residing at Secunderabad do hereby solemnly affirm and state as follows :

1. I am working as Sr.DCM/S.C.Rly/Secunderabad and Respondent no.3 in the MAs and as such, I am well acquainted with the facts of the case. I am filing this reply statement on behalf of all the Respondents, as I have been authorised to do so.
2. It is submitted that the various averments made in the affidavit made by the applicant in support of the MAs are denied, save those that are specifically admitted hereunder.
3. It is submitted that the Applicants filed the affidavit in support of the three MAs, viz. i) MA 114/98 for delay condonation in filing the application to bring the LR's on record. ii) MA 115/98 to set aside the abatement of the OA if already abated. iii) MA 116/98 to permit the applicants herein to be brought on record in O.A. 922/95 to prosecute the same.

....2


सहायक वाणिज्य प्रबंधक
Assistant Commercial Manager
ए. प्र. रेडवे, सिकंदराबाद (ब. ला)
S. C. Railway, Secunderabad (B G)


वरिष्ठ मंडल वाणिज्य प्रबंधक
Senior-Divisional Commercial Manager
सिकंदराबाद (बला) ए. प्र. रेडवे
Secunderabad (B G) S. C. Rly

4. It is submitted that the averments made by the applicant in support of the three MAs are untenable and devoid of merit for the following reasons :

i) MA 114/98 for delay condonation.


It is submitted that the Applicant in OA 922/95 expired on 29-10-96. In terms of Rule 18 of CAT (Procedure) Rules 1987 the LRs of the deceased applicant should have applied within ninety days of the date of death (29-10-96) for being brought on record as necessary parties. In as much as the LRs of the deceased applicant did not apply within ninety days, the proceedings in the OA 922/95 have abated after expiry of ninety days. The Applicants have come up with this MA for condoning the delay of more than one year in filing the petitions for setting aside the abatement order and to bring the LRS of the deceased applicant on record without furnishing any justifiable grounds and without furnishing day to day reasons for delay. The reasons mentioned for the delay are vague and without substance and cannot be accepted and the MA 114/98 is liable to be dismissed.

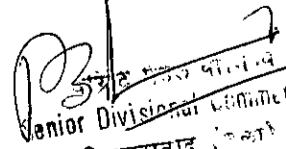
ii) MA 115/98 to set aside the abatement of the OA.

It is submitted that the MA is not maintainable in law and the abatement of the OA cannot be set aside. It is submitted that the applicant in OA 922/95 was punished by the Disciplinary Authority under D&A Rules, 1966 for assaulting one K. Prasad, SCI/SC on duty in the office of the Sr.DCM/SC, with the penalty of reversion from the grade of CGSR i.e. Rs.2000-3200 (RSRP) to the grade of CGC i.e. Rs.1400-2300 (RSRP) fixing his pay at Rs.1800/- P.M. for a period of two years with cumulative effect by order No.C/C/419/OS/AD/Chg/SNAG/94 dt. 8-3-95/5-4-95. The said penalty was confirmed by the appellate authority by order no.C/C/419/OS/AD/Chg/SNAG/94 dt. 22-6-95. Aggrieved by this punishment, the applicant filed OA 922/95 challenging the same. The OA is being contested by the Respondent, duly filing suitable reply. While the OA was pending for hearing, the applicant expired on 29-10-96, resulting in the abatement of the O.A.

It is submitted that the abatement of this O.A. cannot be set aside under law since the claim in this case is founded entirely

....3


सहायक वाणिज्य प्रबन्धक
Assistant Commercial Manager
य. म. रेल्व, सिकंदराबाद (ब. एच.)
B. C. Railway, Secunderabad (B C)


Senior Divisional Commercial Manager
सिकंदराबाद (ब. एच.) रेल्वे

In the Central Administration
Tehsil, Hyderabad

MA 114/98

in
OA 922/95



Reply filed by Respondent

Filed by: D. Francis Paul
SC for Reply

Recd

S.P.S.

22/4/98

Address:

D. F. Paul
SC for Reply
Hyderabad

Copy filed
22/4/98

on personal cause of action and on tort. A tort results from the breach of such duties which are not undertaken by the parties themselves but which are imposed by law. The Hon'ble Supreme Court in AIR 1988 S.C. 506 held that on the death of the plaintiff, the suit abates if claim is founded entirely on tort (para 15 of Judgement) as per Maxim - "Actio Personalis cum moritur persona".

In AIR 1978 Punjab and Haryana 272, it was held, that the death of the plaintiff during the pendency of the appeal in a personal action e.g. suit for declaration that the plaintiff's retirement was illegal abates and an application by the legal representatives for bringing them on record and for continuance of the appeal is not maintainable.

In a suit for damages against counsel, on the death of the plaintiff, the suit abates if the claim is founded entirely on tort, but survives if the claim is based entirely on contract - AIR 1988 SC 506. It is submitted that the disciplinary proceedings instituted by the department against the applicant constitute a personal ^{cause} ~~course~~ of action to the applicant and it does not survive to the IRs for agitating against it.

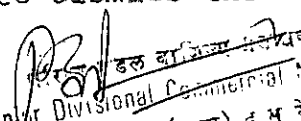
In view of the above legal position, the MA for setting aside the abatement of OA 922/95 is liable to be dismissed.

iii) MA 116/98 to bring the IRs on record.

It is submitted that since the claim in this OA is founded entirely on tort and personal cause of action and in as much as the applicant expired during the pendency of the OA in a personal action, the OA to set aside the order of reversion as arbitrary, perverse etc. abates as held by the Hon'ble Supreme Court and hence this MA to bring the IRs of the deceased applicant on record to continue the OA is not maintainable.

In view of the foregoing, it is submitted that the MA 114/98 is legally not maintainable and is devoid of merit. It is therefore prayed that the Hon'ble Tribunal be pleased to dismiss the MA and dispose of the OA as abated.

Sworn and signed on this the
17th day of April 1998
at Secunderabad, Before me.


Senior Divisional Commercial Manager
DEPARTMENT (माला) इ म रेलवे
Secunderabad (B G), S. C. Railway

ATTEST

तहायक वाणिज्य प्रबंधक
Assistant Commercial Manager
ए. म. रेलवे, सि.हराबाद (ब. का)
S. C. Railway, Secunderabad (B G)

20/2/98

None ~~on either side~~ *In the application*

MA is dismissed

[Signature]
HBSJP
H(J)

[Signature]
HRRNI
H(A)

19-3-98

Heard Mr. Siva for Mr. N. Ram Mohan Rao for the applicant and Mr. D. F. Paul for the respondents.

Notice

file it after 4 weeks

[Signature]
HBSJP
M(J)

[Signature]
HRRNI
M(B)

Notice in 3 MAs
16-4-98

CV
24/3/98

Issues
25/3/98

REPLY/ORIGINAL
BENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

M.A. No. 114 of 11 of 1998

IN

M.A. No. 115 1998.

OA NO. 922/95

TO condone the delay of 356 days on thing abatement Pet.

Mr. N. Ram Mohan Rao

COUNSEL FOR THE APPLICANTS.

AND

Mr. D. Francis Paul

MR. ADDL. STANDING COUNSEL FOR C.G. RLYS.

ANNEXURE
Form of INDEX

List of papers in MA/~~CO/RO~~ No. 116 /98 in OA. No. 922/95

Serial No. of papers on record Part -1	Date of papers or Date of filling	Description of papers	Remarks
---	---	--------------------------	---------

21/1/98

Petition

3.5. Copy

Admitted

Fair list case on tomorrow i.e,
on 22.1.1998 before the II
Court

Hyderabad District

In the Central Administrative
Tribunal: Additional Bench: at
Hyderabad

M.A.No. of 1998

in

O.A.No. 922 of 1995

L.R. Petition

M/s. Nooty Rama Mohana Rao,
K.S.V. Subba Rao,
Abhinand K Shavili, &
Siva.

Counsel for the Applicants.

(18)

Application filed U/R ~~8(3)~~ of the Admn. Tribunal's Act, 1985

M.A.No. 116 of 1998

in

O.A.No. 922 of 1995

Between:-

Sri V. Rama Swamy (Since died) his LRs.

1. Mrs. R.Gnanapad, W/o. Sri V. Ramaswamy, 47 years,
Occ: House Wife, R/o. Hyderabad.
2. R. Deeba Suresh, S/o. Late V. Ramaswamy, 28 years,
Occ: Unemployed, R/o. Hyderabad.
3. R. Shalini Devi, D/o. Late Sri V. Ramaswamy, 24 years,
R/o. Hyderabad.
4. R. Ram Satish Kumar, S/o. Late Sri V. Ramaswamy,
22 years, R/o. Hyderabad.
5. R. Ram Sunder Rao, (being a minor), rep. by his mother
Smt. R. Gnanapad, W/o. Sri V. Ramaswamy, Occ: House
Wife, R/o. Hyderabad. ... Applicants

AND

1. The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial),
Sanchalan Bhavan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o. the
Divisional Railway Manager, Commercial Branch,
Secunderabad. ... Respondents

For the reasons and in the circumstances stated,
in the affidavit filed in support of the LR petition, the
Applicants herein pray that this Hon'ble Tribunal in the
interests of Justice be pleased to permit the Applicants
to be brought on record in O.A.No. 922 of 1995, and prosecute
the same, and pass such other and further order or orders
as are deemed fit and proper in the circumstances of the
case.

Hyderabad,

Dated: 21-1-1998.

Counsel for the Applicants.

In the Central Administrative Tribunal: Addl. Bench at Hyderabad

M.A.No. 116 of 1998

in

O.A.No. 922 of 1995

Between:-

Mrs. R. Gnanapad and 4 others. Applicants

AND

The Union of India, rep. by the General Manager,
South Central Railway, Secunderabad, and 2 others... Respondents

Affidavit of Mr. R. Ram Satish Kumar

.....

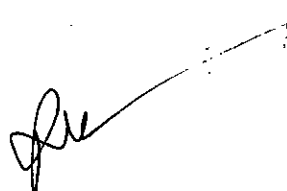
I, R. Ram Satish Kumar, S/o. Late Sri V. Rama Swamy,
aged about 22 years, R/o. Hyderabad, do hereby sincerely
and solemnly swear on oath and state as follows:-

1. I am the 4th Applicant in this Miscellaneous
Application and as such I am well acquainted with the
facts of the case. I am deposing to this Affidavit on
my behalf and also on behalf of the other applicants herein
as I have been authorised by them to do so.

2. I respectfully submit that my father Late Sri
V. Ramaswamy who was working as a Chief Goods Supervisor,
suffered a massive heart attack and he was advised to undergo
treatment at Railway Hospital, Perambur, Tamil Nadu. He
expired at the Hospital on the 29th day of October, 1996.
He was cremated at Tirubhavapalli, his native place, all
religious rites were performed at his native place and
after the religious rites were performed we returned to
Hyderabad in the month of November, 1996.

3. I further submit on coming to Hyderabad I approached
the authorities at South Central Railway for release of the
benefits that are liable to be paid to my father Late Sri V.
Ramaswamy. When I had been to the office of the respondents.

1st page:-
Corrections:-




(R. SATISH)

Deponent

my father's friends have informed me that my father has filed an Original Application in the Hon'ble Central Administrative Tribunal and is still pending. On obtaining the details from the office of the Respondents, I approached the counsel of my father who informed me that Late Sri V. Ramaswamy has challenged the orders of Respondent No. 3 in rejecting the appeal against the penalty of reduction of grade through order No. C/a/419/OS/AO/Chg/SNAG/94, Dated: 22.6.1995 and consequent order of reversion through O.O.No.59/Comml/DRM/95, Dt. 31.5.1995, by way of O.A.No. 922 of 1995. This O.A. was admitted on 7.8.1995 and respondents were asked to file a reply.

4. I respectfully submit that I was advised that on the penalty imposed as my father would adversely affect the quantum of terminal/pensionary benefits it is necessary to bring the L.Rs. on record to contest the above O.A. I was further advised that the Death Certificate also should be annexed to the petitioner. Thus, I had to go to Madras again to obtain the death Certificate as my father has expired at Railway Hospital, Perambur. Thus there was a delay in moving this application for bringing the LRs. on record. I submit that the delay is neither wanton nor wilful but it occasioned only due to the fact that we were not informed by my father that a case is pending on the file of this Hon'ble Tribunal and also there was some delay in obtaining the Death Certificate. Thus this Application is moved for bringing the LRs. on Record.

5. Hence it is prayed that this Hon'ble Tribunal in the interests of Justice be pleased to :-

(i) condone the delay of 330 days in filing the application for bringing the LRs on records;

2nd page:-
Corrections:-



Label
(R. SATISH)
Deponent

Copy sent by post to
 Sri D. Francis panel
 S/c. For. ~~to~~ Respondents
 w. 1. Antithetical of
 Posting. (Enclosed)
 Jim

Counsel for the Applicant

To bring LRs on record,
Fairlist Case on tomorrow i.e.,
on 22-1-98 before the Third
Court

Hyderabad (D.T.)
 In the Central Administrative
 Tribunal: Additional Bench: at
 Hyderabad

M.ANO

-198

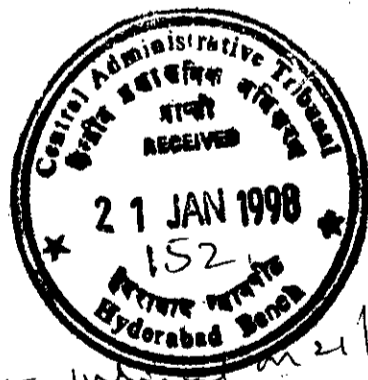
O.ANO

in
 922

/95

L.R. Petition

Vak → 75



Copy sent to subject on 21/1/98

M/s. Nooty Rama Mohana Rao,
 K.S.V. Subba Rao,
 Chhinnava K Shanika
 Silla

Counsel for the Applicant

copy filed
 21/1/98

2
 W
 23

21.1.98
 29.10.98

 22.1.1
 3

 22.1.11

330
 352

(ii) set aside the abatement of the proceedings,
if already abated, and

(iii) permit the applicants to be brought on
record in O.A. No.922 of 1995 and prosecute the
same,

and pass such other and further order or orders as
are deemed fit and proper in the circumstances of the case.

Solemnly affirmed at Hyderabad,
on this the 23rd day of March 1997,
and signed his name in my presence.

3rd and last page:-

Corrections:-

R. Satish
(R. SATISH)
Deponent

Before Me

P. Ganeshaiah
Advocate:Hyderabad

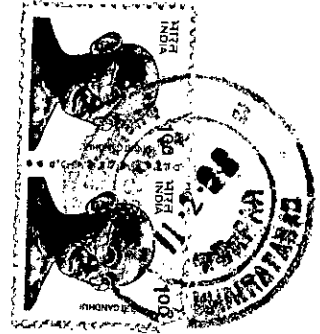
(P. Ganeshaiah)



Certificate of posting

To

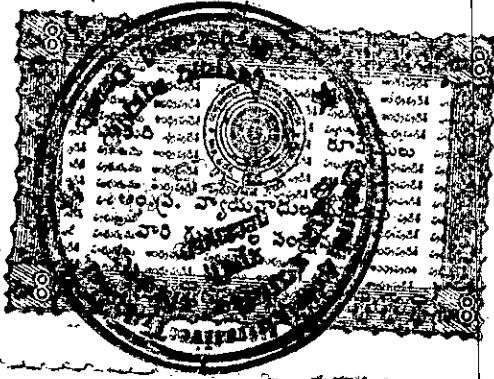
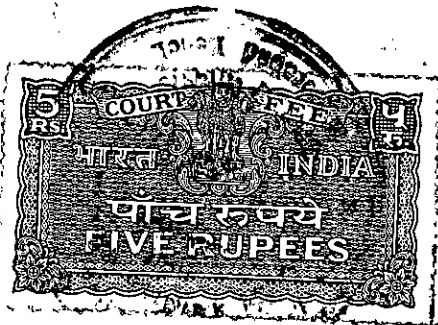
D. Francis Paul, Advocate
Vijayapuri South,
LALAGUDA,
Secunderabad-17.



From:-

N. Rama Mohana Rao, Advocate,
204-A Brindavan Apartments,
Red Hills, Hyderabad-4.





Hyderabad DISTRICT

In The central
Administrative Tribunal
HYDERABAD

O. A. : No. 922 of 1995

VAKALAT

ACCEPTED

[Handwritten signatures and initials]

Advocate for Applicant
~~Respondent~~

Date: 21/1/1998

M/s. N. RAMA MOHANA RAO
~~REKAP NARAYAN SANGH~~
K.S.V. SUBBA RAO &
ABHINAND K. SHAVILI &

[Handwritten signature]

Advocate for Applicant
~~Respondent~~

Address for Service : Phone: 3391766
~~221700~~

714, Brindavan Apartments,
Niloufer Hospital Road, Red Hills,
HYDERABAD-500 004

In the Central Administrative Tribunal

HYDERABAD

O. A. No. : 922 of 1995

Between

V Rama Sumanu

Applicant.

AND
Union of India
and others

Respondent

We ✓

The under signed

Applicant-
Respondent

do hereby appoint and retain

M/s. N. RAMA MOHANA RAO
~~PRATAP VARAYAN SANGHI~~
K.S.V. SUBBA RAO &
ABHINAND K. SHAVILI &

Siva



Advocates to appear for me/us in the above/case/appeal/petition and to conduct and prosecute(or defend)the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein, I/we empower my/our,Advocates to appear in all miscellaneous proceedings in the above case to matter till all decree or orders any fully satisfied or adjusted to compromise and to obtain the return of documents and draw any moneys that might be payable to me/us in the said case or matter (and I/we do further compower my/us Advocates to accept on my/our behalf service of all or any appeals or petitions filed in any court of Appeal, reference or Rivision with regard said suit or matter before the disposal of the same in this Honourable Court)

1. R. Gnanapoo
2. R. Shanti
3. R. Shanti
4. R. Shanti

5. R. Gnanapoo

Certified that the executant who is well acquainted with English and this Vakalatnama and the contents of the Vakalatnama were read out explained in Telugu/English/Urdu to excutant or he/she they being unacquainted with English who appeared perfectly to understand the same and signed or put his/her/their. name or mark in my presence.

Executed

7th

day of

April

1997

(P. Chameshwar Rao)
Advocate, Hyd

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD

M.A. No. 116 OF 1998

IN

O.A. NO. 922 OF 1995

BETWEEN :

V. Ramaswamy (since died)

1. Mrs. R. Gnanapad
2. R. Deeba Suresh
3. R. Shalini Devi
4. R. Ram Satish Kumar
5. R. Ram Sundar Rao

LRs

.. APPLICANT

A N D

The General Manager,
South Central Railway,
and two others

.. RESPONDENTS

REPLY STATEMENT FILED ON BEHALF OF RESPONDENTS

I. P. Seethapathi Rao s/o Venkatappaiah aged 57 years, occupation government service, residing at Secunderabad do hereby solemnly affirm and state as follows :

1. I am working, as Sr.DCM/S.C.Rly/Secunderabad and Respondent no.3 in the MAs and as such, I am well acquainted with the facts of the case. I am filing this reply statement on behalf of all the Respondents, as I have been authorised to do so.
2. It is submitted that the various averments made in the affidavit made by the applicant in support of the MAs are denied, save those that are specifically admitted hereunder.
3. It is submitted that the Applicants filed the affidavit in support of the three MAs, viz. i) MA 114/98 for delay condonation in filing the application to bring the LRs on record ii) MA 115/98 to set aside the abatement of the OA if already abated. iii) MA 116/98 to permit the applicants herein to be brought on record in OA 922/95 to prosecute the same.
4. It is submitted that the averments made by the applicant in support of the three MAs are untenable and devoid of merit for the following reasons :
 - 1) MA 114/98 for delay condonation.

It is submitted that the Applicant in OA 922/95 expired on 29-10-96. In terms of Rule 18 of CAT (Procedure) Rules 1967 the LRs

Assistant Commissioner
E. M. Rao, Secunderabad (M. Rly)
S. C. Railway, Secunderabad (M. Rly)

Senior Divisional Commercial Officer
Secunderabad (M. Rly)
Secunderabad (M. Rly)

of the deceased applicant should have applied within ninety days of the date of death (29-10-96) for being brought on record as necessary parties. In as much as the LRs of the deceased applicant did not apply within ninety days, the proceedings in the OA 922/95 have abated after expiry of ninety days. The Applicants have come up with this MA for condoning the delay of more than one year in filing the petitions for setting aside the abatement order, and to bring the RS of the deceased applicant on record without furnishing any justifiable grounds and without furnishing day to day reasons for delay. The reasons mentioned for the delay are vague and without substance and cannot be accepted and the MA 114/98 is liable to be dismissed.


ii) MA 115/98 to set aside the abatement of the OA.


It is submitted that the MA is not maintainable in law and the abatement of the OA cannot be set aside. It is submitted that the applicant in OA 922/95 was punished by the Disciplinary Authority under D&A Rules, 1966 for assaulting one K. Prasad, SCE/SC on duty in the office of the Sr. DCM/SC, with the penalty of reversion from the grade of CGSR i.e. Rs.2000-3200 (RSRF) to the grade of CGC i.e. Rs.1400-2300 (RSRF) fixing his pay at Rs.1800/- P.M. for a period of two years with cumulative effect by order no. C/C/419/OS/AD/Chg/SNAG/94 dtd.8-3-95/5-4-95. The said penalty was confirmed by the Appellate authority by order no. C/C/419/CS/AD/Chg/SNAG/94 dtd. 22-6-95. Aggrieved by this punishment, the applicant filed OA 922/95 challenging the same. The OA is being contested by the Respondent, duly filing suitable reply. While the OA was pending for hearing, the applicant expired on 29-10-96, resulting in the abatement of the O.A.

It is submitted that the abatement of this O.A. cannot be set aside under law since the claim in this case is founded entirely on personal cause of action and tort. A tort results from the breach of such duties which are not undertaken by the parties themselves but which are imposed by law. The Hon'ble Supreme Court in AIR 1988 S.C.50 held that on the death of the plaintiff, the suit abates if claim is founded entirely on tort (para 15 of Judgement) as per Maxim - "Actio Personalis cum moritur persona".

In AIR 1978 Punjab and Haryana 272, it was held, that the death of the plaintiff during the pendency of the appeal in a personal action

....3


J. K. Gullway, Secunderabad (L. G.)


P. S. L.
Senior Divisional Commercial Officer
Secunderabad

In the Central Administrative,
Tribunal, Hyderabad.

MA 116/98

CA-922/95



~~Reply filed by Respondent.~~

Filed by: D. Francis Rauf
SC for Reply

Address.

D. F. Rauf

SC for Reply

Secunderabad

e.g. suit for declaration that the plaintiff's retirement was illegal abates and an application by the legal representatives for bringing them on record and for continuance of the appeal is not maintainable.

In a suit for damages against counsel, on the death of the plaintiff, the suit abates if the claim is founded entirely on tort, but survives if the claim is based entirely on contract - AIR 1988 SC 506. It is submitted that the disciplinary proceedings instituted by the department against the applicant constitute a personal ~~cause~~ ^{Cause} of action to the applicant and it does not survive to the IRs for agitating against it.

In view of the above legal position, the MA for setting aside the abatement of OA 922/95 is liable to be dismissed.

iii) MA 116/98 to bring the IRs on record.

entirely on tort and personal cause of action and in as much as the applicant expired during the pendency of the OA in a personal action, the OA to set aside the order of reversion as arbitrary, perverse etc. abates as held by the Hon'ble Supreme Court and hence this MA to bring the IRs of the deceased applicant on record to continue the OA is not maintainable.

In view of the foregoing, it is submitted that the MA 116/98 is legally not maintainable and is devoid of merit. It is therefore prayed that the Hon'ble Tribunal be pleased to dismiss the MA and dispose of the OA as abated.

Sworn and signed on this the 17th day of April 1998 at Secunderabad, before me.


DEPONENT

वरिष्ठ मंडल वाणिज्य प्रबन्धक
Senior Divisional Commercial Manager
मिर्जापुर (बल) विभाग
Secunderabad (G)


ATTORNEY.

सहायक वाणिज्य प्रबन्धक
Assistant Commercial Manager
ए. न. रेलवे, मिर्जापुर (बल) विभाग
S. C. Railway, Secunderabad (G)

20/2/98

None. For bus, applicant
on either side

MA is dismissed.

R
HBSTP
M(J)

A
HRRN
M(A)

19-3-98.

Heard Mr. Siva for Mr. N.
Ram Mohan Rao for the applicant
and Mr. D. F. Paul for the
respondent.

Notice.

Left it after 4 weeks.

J
HBSTP
M(J)

D
HRRN
M(A)

Notice in MA
16.4.98

By
21/3/98
Issued
25/2/98

Restored ORIGINAL
ON 19-3-98 BY MA/BENCH CLERK
RAILWAY

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

M.A. No. 116 of 11998

IN

O.A. No. 922 1998

To bring L.R. on Record

Mr. N. Rama Mohan Rao
COUNSEL FOR THE APPLICANTS.

AND

Mr. D. Francis Paul
Sr. ADDL. STANDING COUNSEL FOR C.G. RLYS.

Between:

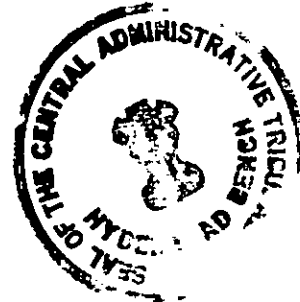
Dated:20.2.1999.

Sri V. Rama Sوامy
Mrs. R. Ganapad
S. Deeba Suresh
S. Shalini Javi
M. Ram Satish Kumar
M. Ram Sunder Rao

.. Applicants.

And

1. The General Manager, South Central Railway, Secunderabad.
2. The Additional Railway Manager (Commercial), Manchalan Shevan, 2nd Floor, Secunderabad.
3. The Senior Divisional Commercial Manager, O/o The Divisional Railway Manager, Commercial Branch, Secunderabad.



.. Respondents.

Counsel for the Applicants : Mr. N. Rama Mohan Rao

Counsel for the Respondents : Mr. D.F. Paul,

ORDER:

THE APPLICANTS' PETITIONERS : NO. (A)

THE RESPONDENTS' PETITIONERS : NO. (B)

THE TRIBUNAL IS OF THE OPINION THAT:

None on either side. The is dismissed.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

भारतीय न्यायालय/उप रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
के द्वारा प्रमाणित किया गया
Central Administrative Tribunal
HYDERABAD BENCH

Sd/- X X
Deputy Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

M.A. NO. 223/98 in M.A. NO. 116/98
in G.A. 923/95

Between:

Dt. of Order: 19.3.98

Shri V. Rama Swayy (since died)

- 1. Mrs. T. Shanepad
 - 2. R. Deeba Suresh
 - 3. R. Shalini Devi
 - 4. R. Ram Satish Kumar
 - 5. R. Ram Sunder Reddy
- LRA

And

...Applicants.

- 1. The General Manager, South Central Railway, Secunderabad.
- 2. The Addl. Railway Manager, (Commercial), Sancholan Bhasan, 2nd floor, Secunderabad.
- 3. The Senior Divisional Commercial Manager, O/O The Divisional Railway Manager, Commercial Branch, Secunderabad.

...Respondents.

Counsel for the Applicants : Mr. N. Ram Mohan Rao

Counsel for the Respondents : Mr. D. F. Paul

COMES:

THE HON'BLE SHRI R. RANGA RAU : MEMBER (A)

THE HON'BLE SHRI B. S. JAI RAMANUJAN : MEMBER (B)

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Heard Mr. Siva for Mr. N. Ram Mohan Rao for the Applicant and Mr. D. F. Paul for the Respondents.

The LRA of the deceased applicant have filed this restoration petition in M.A. 116/98.

For the reasons stated in the affidavit we restored the M.A. 116/98.

Thus the M.A. is disposed of.

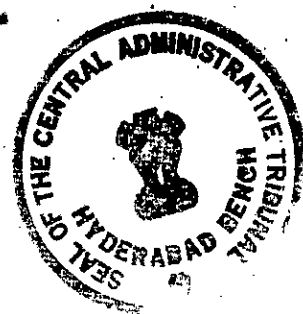
Handwritten notes and signatures in the bottom left corner, including names like 'S.P. Rao' and 'D. F. Paul'.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

Sd/-x x x
DEPUTY REGISTRAR

स्वायत्त अधिकारी/उप रजिस्ट्रार (स्वायत्त)
Govt. Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

HYDERABAD BENCH



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

M.A. NO. 223/99 in M.A. NO. 116/98
in S.A. 922/98

Between:

Dt. of Order: 19.2.98

Shri V. Venkateswamy (since died)

- 1. Shri R. Channappa
 - 2. H. Deeba Suresh
 - 3. R. Shalini Devi
 - 4. N. Ram Sathish Kumar
 - 5. R. Ram Sundar Rao
- LRs

And

...Applicants

- 1. The General Manager, South Central Railway, Secunderabad.
- 2. The Addl. Railway Manager, (Commercial), Sanchalan Bhehan, 2nd Floor, Secunderabad.
- 3. The Senior Divisional Commercial Manager, O/S The Divisional Railway Manager, Commercial Branch, Secunderabad.

...Respondents.

Counsel for the Applicants : Mr. N. Ram Mohan Rao

Counsel for the Respondents : Mr. D. F. Paul

COMMISSIONERS

THE HON'BLE SHRI S. NARAYANACHARI : MEMBER (A)

THE HON'BLE SHRI S. S. JAI PRAKASHAN : MEMBER (B)

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Heard Mr. Giva for Mr. N. Ram Mohan Rao for the applicant and Mr. D. F. Paul for the respondents.

The LR's of the deceased applicant have filed this restoration petition in S.A. 116/98.

For the reasons stated in the affidavit we restored the M.A. 116/98.

Thus the M.A. is disposed of.

प्रमाणित प्रति
 CERTIFIED TO BE TRUE COPY
 न्यायालय अधिकारी/उप रजिस्ट्रार (न्यायिक)
 Court Officer/Dy, Registrar
 केन्द्रीय प्रशासनिक अधिकरण
 Central Administrative Tribunal
 (L) Hyderabad Bench
 HYDERABAD BENCH

Sd/-x * * *
DEPUTY REGISTRAR

