

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 1097/95

Date of Order : 26.2.98

BETWEEN:

M.A. Quddeose

.. Applicant.

AND

1. Secretary to Government of India,  
(Revisionary Authority),  
Department of Atomic Energy,  
C.S.M. Marg, Bombay.

Authority), Nuclear Fuel Complex,  
Department of Atomic Energy,  
Government of India,  
ECIL P.O., Hyderabad.

3. The Deputy Chief Executive (A)/  
Disciplinary Authority,  
Nuclear Fuel Complex,  
Department of Atomic Energy,  
Govt. of India, ECIL PO, Hyderabad.

4. The Manager (Utilities),  
Nuclear Fuel Complex,  
Dept. of Atomic Energy,  
Govt. of India, ECIL P.O.,  
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mrs.G.Shyamala

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

CORAM:

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

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

O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Mr.Pradyumna Sharma, for Mrs.G.Shyamala, learned counsel  
for the applicant and Mr.M.Rajeswara Rao, learned standing  
counsel for the respondents.

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2. The applicant in this OA is a Boiler Operator Tradesman 'D' under R-2. He was issued with a charge sheet for certain lapses by memo No.NFC/PA.V/2606/146, dated 21.12.91 (A-3) The charges framed against him reads as follows:-

"That the said Shri M.A.Quddeose, T/D EC No.3232 while functioning as T/D (Boiler Operator) in Utilities Section, NFC failed to operate the boiler efficiently and safely on 28.9.91 in third shift by not maintaining the minimum requisite water level in the boiler thereby causing over-heating to the boiler tubes and resultant melting down of boiler tubes with substantial loss to the Government equipment. Sri M.A.Quddeose is, therefore, charged for an act of misconduct in terms of Rule 3(1)(i) and 3(I)(iii) of CCS Conduct Rules, 1964".

3. The charge sheet was issued under Rule 14 of CCS (CCA) Rules 1965. The charges were enquired into and the proceedings of the enquiry report No.NFC: MTP: DE: 63:93:406, dated 16.12.93 are enclosed at page-31 to the OA. The conclusion of the enquiry proceedings reads as below :-

"Some confusion appears to be there regarding the Class of Boiler No.3 whether it is first class or 2nd class. Sri B.V.Rathnam deposing before the Inquiry Committee on 6.5.92 stated that the Boiler No.3 is Class II which was later proved to be Class I Boiler with a heating surface of 198 Sq.mtrs. However, on carefully going through the Inquiry Committee proceedings, Presenting Officer case, charged Officer's briefing and analysis, I conclude that Sri M.A.Quddeose was negligent in attending the Boiler No.3 between 0400 hours and 0615 hours in the IIIrd shift of 28.9.91. Hence the articles of charges framed against Sri M.A.Quddeose is proved. But considering the obedience of Sri M.A.Quddeose (He had been operating Boiler No.3 which is a Class I Boiler as per instructions from his superiors though he possesses Class I Boiler Operator's Certificate) a lenient view may be taken".

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4. A copy of the enquiry report was given to the applicant and he submitted his reply to R-3 by his representation dated 22.1.94 (A-7) explaining that he is not guilty of the charges. On the basis of the enquiry report and his explanation an order was passed by R-3 imposing the penalty of reduction of pay by 3 stages <sup>from</sup> by Rs.1560/- to 1470/- in the pay scale of Rs.1320-2040 for a period of one year with cumulative effect on the applicant who is a Tradesman 'D' ECNo.3232 Utility. It ~~will not earn~~ increments on pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing the future increments of pay. Against that order the applicant submitted an appeal to R-2 by his representation dated 4.5.94 (A-9). The Appellate Authority considered his representation and passed the impugned order No.NFC/PA.IX/1(01)/3232/850, dated 22.6.94 (A-10) modifying the penalty of reduction of pay by 2 stages from Rs.1560/- to 1470/- in the scale of pay of Rs.1320-2040 for a period of one year with cumulative effect. The applicant had also made a revision petition addressed to R-1 which was disposed of by order No.6/2(19)/94-IND(NFC)/4, dated 30.12.94 (A-12) rejecting his revision petition.

5. This OA is filed for setting aside the impugned order of the appellate authority which merges the order of the disciplinary authority also by imposing the penalty of reduction of pay by 2 stages i.e. Rs.1560/- to Rs.1500/- for a period of one year with cumulative effect from March 1994 holding the same as illegal, improper, unjust and contrary to the rules and for a declaration that the applicant is entitled to the annual increments w.e.f. 1.3.94 with all consequential benefits including monetary benefits.

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6. The contentions of the applicant are as follows:-

(a) The applicant is a Tradesman 'D' Boiler Operator. He was asked to attend to Boiler No.3 which requires the Class I Boiler Attendant as the capacity of the boiler is more than 2100 sft. As a Grade-III Boiler Operator he is eligible of 1500 sft. Hence the applicant submits that he <sup>was</sup> asked to discharge the duties for which he <sup>was</sup> ~~is~~ not competent and trained. For that he relies on A.P. Boiler Attendants Rules 1956. Particularly he relies on Rules 2, 3, 5, 6, 21, 38 & 39 of the above said rule.

7. We enquired from the respondents whether the applicant, is eligible as per his qualification to attend the Boiler No.3 whose heating surface is more than 1500 sft. If he is not <sup>eligible</sup> ~~permitted~~, whether asking him to discharge the maintenance duties of boiler No.3 is beyond the rules provided for in the A.P. Boiler Attendants Rules 1956.

8. The learned counsel for the respondents today submitted that though, no doubt, the applicant is a Boiler Operator Gr-II, he <sup>was</sup> ~~is~~ discharging the duties of maintenance of Boiler No.3 the heating surface of which <sup>was</sup> ~~is~~ more than <sup>was</sup> ~~is~~ that he ~~is~~ eligible. He was attending for a number of years and on that basis it cannot be said that he cannot be allowed to look after the maintenance duties of Boiler No.3. It is further submitted by him that the applicant having submitted himself to perform the duties of maintenance of Boiler No.3 heating surface of which is more than 1500 sft, he cannot turn back now and say that he <sup>was</sup> ~~is~~ not eligible enough to put into that work. That itself is a wrong submission on the part of the applicant and hence punishing him for not discharging the duties is in order.

9. When the rules are there, it is for the department to strictly comply with the rules especially in the maintenance of the boilers whose explosion will cause severe damage not only to the equipment but also to the surrounding area. Hence the respondents are also responsible to look after the boiler by deputing a qualified and trained staff to maintain such boilers. The respondents should bear certain portion of the blame. The blame cannot be on the employee exclusively. In this case it is an evident fact that the applicant herein <sup>was</sup> ~~is~~ only a Boiler Attendant Gr-II. The boiler in question which exploded for want of water is more than that area. Hence in our opinion the respondents should not have entrusted that duty to the applicant who <sup>was</sup> ~~is~~ not qualified to maintain that boiler. This is evident from the A.P. Boiler Attendants Rules 1956 which stipulated certain conditions for maintenance of boiler. The respondents cannot ever look those rules and act without following the rules. Hence we hold that the respondents are responsible for allotting the work of maintenance of Boiler No.3 to the applicant without following the rules.

10. (b) The next contention of the applicant in this OA is that there are safety gadgets which prevents such bursting of the boiler whenever the water level goes below the prescribed level. The learned counsel for the applicant submits that the gadgets in question failed to operate. If those gadgets were maintained properly this accident would not have happened. The learned counsel for the respondents submits that it is the duty of the applicant to ensure that the water level does not go below the prescribed level and if it goes below the prescribed level the applicant has to take action to activate the equipments to maintain the water level or else the boiler should be shut off. The above duty is to be done even though he is not a Class I Operator.

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11. Safety Gadgets are provided to avoid human failure. If these gadgets do not function properly the Boiler Operator water level, but that does not mean the applicant is solely responsible for the accident. Had the safety gadgets functioned properly it would have avoided the accident even if the applicant <sup>was</sup> ~~is~~ not alert. Though the learned counsel for the respondents cannot be drawn from the enquiry proceedings.


12. The learned counsel for the applicant submits that the Chief Inspector of Boilers has not found him guilty in accordance with the procedure laid down in the Rule 51 of the A.P. Boiler Attendants Rules 1956. No material to that effect has been produced. But it is for the respondents to consider this point also.

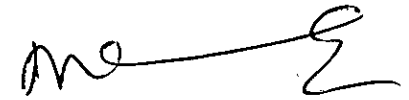
13. Considering the above points we feel that the charge sheet has been processed without following the extant rules in regard to the maintenance of boilers as well as other aspects pointed out in the OA. Hence the orders of the Disciplinary, Appellate and Reviewing authorities are hereby set aside. However, the respondents are at liberty to revive this case after fully satisfying that the rules are followed strictly and <sup>that</sup> the applicant <sup>was</sup> ~~is~~ fully responsible for the accident. Such a decision should be taken within a period of 2 months from the date of this order and the applicant is informed <sup>of</sup> ~~the~~ same. If no decision is taken within 2 months stipulated then the applicant should be given all the consequential benefits as the punishment has been set aside and the applicant is entitled for consequential benefits in accordance with the law.

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14. The O.A. is disposed of with no costs.


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

  
( R. RANGARAJAN )  
Member (Admn.)

26.2.98

Dated : 26th February, 1998

(Dictated in Open Court)

  
D.R.

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DA.1097/95

Copy to:-

1. The Secretary to Government of India, (Revisionary Authority), Dept. of Atomic Energy, C.S.M. Margh, Bombay.
2. The Chief Executive (Appellate Authority), Nuclear Fuel Complex, Dept. of Atomic Energy, ECIL P.O., Hyderabad.
3. The Deputy Chief Executive (A)/Disciplinary Authority, Nuclear Fuel Complex, Dept. of Atomic Energy, ECIL P.O., Hyderabad.
4. The Manager (Utilities), Nuclear Fuel Complex, Dept. of Atomic Energy, ECIL P.O., Hyderabad.
5. One copy to Mrs. G. Shyamala, Advocate, CAT., Hyd.
6. One copy to Mr. V. Rajeswara Rao, Addl. CGSC., CAT., Hyd.
7. One copy to O.R. (A), CAT., Hyd.

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G. K. / 19/3/98

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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:

26/2/98

ORDER/JUDGMENT

M.A./R.A./G.A. NO.

in

O.A. NO.

1097/95

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

