

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

G.A.NO, 1014/95.

Date of Order: 25-8-1995.

Between:

1. A.M.B.Rao

.. Applicant

and

1. Union of India rep.by its General Manager,  
South Eastern Railways, Gardenreach, Calcutta-43.
2. Divisional Railway Manager, S.E. Railways,  
Visakhapatnam-4.
3. Divisional Electrical Engineer (TRS),  
(HPL), Office of Sr. Divisional Electrical Engineer  
(TRS), S.E. Rlys, Visakhapatnam-4.
4. Senior Divisional Electrical Engineer (TRS),  
S.E. Railways, Waltair-4. Visakhapatnam-4.

Respondents..

For the Applicant :- Mr. A.Srinivasa Sarman, Advocate.

For the Respondents: Mr. N.R.Devaraj, SC for Rlys.  
Sr./Add.CGSC

CORAM:

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

THE HON'BLE MR.RARANGARAJAN : MEMBER (ADMN)

32  
DA.1014/95

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, VC )

Heard Sri A. Srinivasa Sarma, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. The applicant is working as H.S. Fitter Grade I, ELS, Waltair, SE Railway, Visakhapatnam. After inquiry in regard to the charge memo dated 25-3-1994 issued by the applicant, R-3 the disciplinary authority passed the order dated 26-10-95 awarding punishment of withholding of increment for five years with cumulative effect. R-4 the appellate authority confirmed the same by order dated 28-3-1994. Being aggrieved the applicant preferred this OA.

3. The two main contentions for the applicant are :

- i) eventhough he made a request for giving him personal hearing and permit him to appear alongwith a defence counsel, R-4 had not made any mention~~ed~~ in regard to the same in the order dated 28-3-1995 and
- ii) eventhough the applicant raised a number of grounds in the appeal memo, <sup>they</sup> ~~that~~ were not adverted to and the order dated 28-3-1995 is not a speaking order.// Rule 24(1) of Railways (D&A) Rules 68 makes it clear that the appellate authority may at its discretion and if it considers it necessary give the non-gazetted railway servant a personal hearing before disposing of the appeal. It is not in controversy that the applicant is a non-gazetted railway servant and he made a written request for personal hearing.

Copy to:-

1. General Manager, South Eastern Railways,  
Union of India, Gardenreach, Calcutta-43.
2. Divisional Railway Manager, S.E. Railways,  
Visakhapatnam-4.
3. Divisional Electrical Engineer (TRS),  
(HPL), Office of Sr. Divisional Electrical  
Engineer (TRS), S.E. Rlys, Visakhapatnam-4.
4. Senior Divisional Electrical Engineer (TRS),  
S.E. Railways, Waltair-Visakhapatnam-4.
5. One copy to Mr. A. Srinivasa Sarman, Advocate.  
10-1-27, Traveller Bungalow Road, Visakhapatnam-530 003.
6. One copy to Mr. N.R. Mevaraj, Standing Counsel  
for Railways, CAT, Hyderabad.
7. One copy to Library, CAT, Hyd.  
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8. One spare copy.

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There is no mention about the said request for the applicant in the order dated 28-3-1995 passed by R-4, the appellate authority. It is necessary for R-4 to consider whether it is a case where personal hearing or personal hearing alongwith defence counsel has to be given or whether it is not necessary to give such hearing, and the same <sup>has</sup> <sup>dealt with</sup> ~~had~~ to be ~~mentioned~~ in the order to be passed by the appellate authority.

4. The order dated 28-3-1995 by R-4 is as under :

"After ~~going~~ through your appeal dated 20-3-1995 it is decided that the punishment imposed by the disciplinary authority vide this office punishment Notice 2 under reference is stands good."


5. It is obvious that it is not a speaking order. The material relevant ~~for~~ contentions raised in the appeal memo including ground No.1(c) of representation dated 20-3-1995 (Annexure A-IV) have to be <sup>considered</sup> ~~adverted to~~. Thus, the said order is not in conformity with Rule 24 of Railway Servants (D&A) Rules.

6. Hence on both the above grounds, ~~that~~ the order dated 28-3-1995 of R-4 is liable to be set aside.

7. In the result the DA is ordered as under :

Order dated 28-3-1995 of R-4 vide WAT/TRS/E/20/AMB/990 is set aside and the matter is remitted to R-4 for consideration of the appeal in accordance with Rule 24 of Railway Servants(D&A) Rules by keeping in view the observations made in this order. No costs.//

  
(R. Rangarajan)  
Member (Admn.)

  
(V. Neeladri Rao)  
Vice Chairman

  
Dy.Registrar(Judl)

Dated : August 25, 95  
Dictated in Open Court

07.10.14/95

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE-CHAIRMAN

and

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

25-8  
DATED:-- -- 1995.

ORDER/JUDGMENT.

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

in

O.A.No.

P.A.No.

(W.P.)

Admitted and Interim Directions  
Issued.

Allowed

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

pvm.

No spare copy

