

CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO.103 OF 1995.

DATE OF ORDER:-18TH NOVEMBER,1997.

BETWEEN :

MOHD. RAHMAN SHERIFF

... APPLICANT

AND

1. Senior Divisional Mechanical Engineer,
South Central Railway,B.G.Division,
Secunderabad.
2. Divisional Mechanical Engineer,
South Central Railway,B.G.Division,
Secunderabad.
3. Assistant Mechanical Engineer,
C & W, B.G.Division,
South Central Railway,
Secunderabad.

... RESPONDENTS.

Counsel for the Applicant - Mr. S. Lakshma Reddy
Counsel for the Respondents

CORAM :

HONOURABLE MR. R. RANGARAJAN, MEMBER(ADMN.)

HONOURABLE MR.B.S.JAI PARAMESHWAR, MEMBER(JUDL.)

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O R D E R (ORAL).

(Per Hon.Mr.B.S. Jai Parameshwar, Member(Judicial))

Heard Mr. S. Lakshma Reddy, learned counsel for the applicant and Mr.W. Satyanarayana for Mr. N.R.Devaraj, learned Standing Counsel for the respondents. Mr. Satyanarayana even though wanted to adjourn the case as Mr. Devaraj was readily not available, we were not inclined to grant the same and took the case for final disposal.

2. The applicant was appointed as a Khalasi on 2.2.1978. After having been engaged on casual basis during the years 1976-77 he was promoted as a Khalasi Helper during the year 1981. While the applicant was working as Khalasi Helper, he remained absent from duties for a period of 96 days between 7.3.1992 and 9.11.1992. He was served with a major penalty charge memo in the standard Form No.V on 17.3.1993. On 30.3.1993 the applicant submitted his explanation to the charge memo. In his explanation, he admitted his absence, attempted to explain certain family problems which compelled him to remain away from ^{the} duties. An enquiry was conducted into the charge memo. The applicant participated in the disciplinary proceedings. During the enquiry, the applicant after going through the records admitted himself about his absence for a period of 83 days between 11.10.1992 and 10.11.1993. The Enquiry Officer on 17.11.1993 submitted his report holding the charge as proved. The disciplinary authority by his proceedings No.CM/226/C&W/DAR dated 10.2.1994 imposed a penalty of removal from service on the applicant. Against the said punishment, the applicant submitted an appeal dated

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22.3.1994. The appellate authority by his proceedings of even number dated 6.4.1994 rejected the appeal. Against the said rejection of his appeal, the applicant submitted a revision petition dated 30.5.1994. The revising authority by his proceedings dated 16.6.1994 rejected the revision petition and confirmed the punishment of removal.

3. The applicant has filed this O.A. challenging the aforesaid orders from service and has prayed for his reinstatement into service.

4. The respondents have filed their counter stating that the applicant was given opportunity during the enquiry and during course of enquiry, the applicant himself admitted the charges levelled against him. They also rely on the observations made by the Bombay Bench of this Tribunal in the case of Executive Engineer, Central Water Commission v. Mohamed Iqbal Shaik & others, reported in 1992(1) SLJ 67. Their main contention is that when once the applicant admitted the charges levelled against him, he cannot turn back at a later stage and say that the enquiry was vitiated on account of failure of giving him opportunity of being heard in the enquiry. Thus they submit that there are no grounds to interfere with the orders impugned.

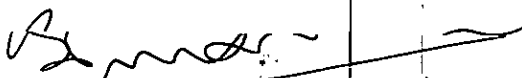
5. We do not want to examine the merits of the case. The applicant was removed from service for unauthorised absence for 83 days in various spells. The charge sheet was issued for unauthorised absence from 7.3.1992 to 9.11.1992 in various spells; whereas in the enquiry report, the absence was noted as 11.10.1992 to 10.11.1993. Hence there is a difference in spells of

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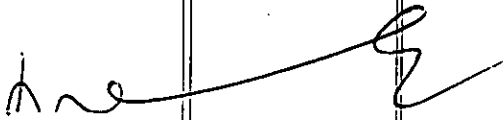
unauthorised absence. In any case, as stated earlier, we do not intend to go into the merits of the case. We are of the opinion that the penalty of removal of service is disproportionate to the gravity of the charge which is unauthorised absence for about three months. The applicant has also given some explanation for the unauthorised absence. Hence, we are of the opinion that the authority should reconsider the quantum of punishment awarded to him in the light of the above observation and decide the matter in regard to the punishment to be imposed on the applicant.

The time for compliance is three months from the date of receipt of a copy of this order.

6. The O.A. is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER(JUDICIAL)

18.11.97


(R. RANGARAJAN)
MEMBER(ADMINISTRATIVE)

DATED THE 18TH NOVEMBER, 1997.

Dictated in the Open Court.

DJ/

DA.103/95

Copy to:-

1. The Senior Divisional Mechanical Engineer, South Central Railway, B.G.Division, Secunderabad.
2. The Divisional Mechanical Engineer, South Central Railway, B.G.Division, Secunderabad.
3. The Assistant Mechanical Engineer, C & W, B.G.Division, South Central Railway, Secunderabad.
4. One copy to Mr. S.Lakshma Reddy, Advocate, CAT., Hyd.
5. One copy to Mr. N.R.Devaraj, Sr.CGSC., CAT., Hyd.
6. One copy to BSJP M(J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate.

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TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL 'Y'
HYDERABAD

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

AND

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

Dated: 18/11/97

ORDER/JUDGMENT

M.A./R.A./C.A.NO.

in

D.A.NO. 103/95

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

II Court

