

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD

DLA. NO.178/95

Between:

Date of Order: 20.3.95.

P.Jeevaratnam

...Applicant.

And

1. Divisional Railway Manager,
South Central Railway,
Vijayawada.
2. Divisional Operating Manager,
South Central Railway,
Hubli.
3. The General Manager,
South Central Railway,
Railnilayam,
Secunderabad.

...Respondents.

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

Counsel for the Respondents : Mr.J.R.Gopal Rao, Addl.cGSC

CORAM:

THE HON'BLE SHRI A.V.HARIDASAN : MEMBER (J)

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

contd...

DA 178/95.

Dt. of Order: 20-3-95.

(Order passed by Hon'ble Shri A.V.Haridasan, Member (J)).

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The applicant working as a Guard at Vijayawada was convicted by the Metropoliton Magistrate in CC 135/86 and was sentenced to undergo rigorous imprisonment for two years and to pay a fine ~~Rs. 100/-~~ in Criminal Appeal No.76/94 suspended the sentence of imprisonment till the disposal of the appeal. The Divisional Operating Manager, Hubli, has issued a ~~show cause notice to the applicant to show cause~~ as to why he should not be dismissed from service because of his conduct leading to the conviction and sentence. The applicant has submitted an explanation to the show cause notice on ~~which he had explained that the sentence having been suspended by the Sessions Judge no order of dismissal is to be passed~~ according to Law till the disposal of the appeal by the Sessions Judge. Apprehending that the Divisional Operating Manager may without considering the explanation dismiss him from service, the applicant has filed this application praying that the impugned memorandum dt.31-1-95 may be quashed.

2. Sri Subba Rao, learned counsel for the applicant argued that the Railway Board has issued instructions that in cases where appeal against sentence of imprisonment is pending, final orders dismissing an employee may not be passed till the appeal is disposed of and that therefore the action of the Divisional Operating Manager in issuing the showcause notice while appeal

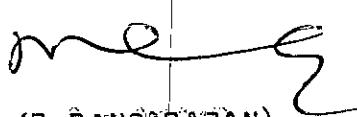
Copy to:

1. South Central Railway,
Vijayawada.
2. Divisional Operating Manager,
South Central Railway,
Hubli.
3. South Central Railway,
Railnilayam,
Secunderabad.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT, Hyderabad
5. One copy to Mr.J.R.Gopal Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

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is pending and while the sentence has been suspended is unsustainable. Even according to Sri Subba Rao, the directions contained in the instructions of the Railway Board there is no prohibition against issuing a show cause notice. The embargo according to him is for passing an order of dismissal or removal. No such order has so far been passed. It cannot be reasonably presumed that the Divisional Operating Manager would ignore the instructions of the Railway Board. The applicant has submitted his explanation to the show cause notice. A cause of action would arise to the applicant only if an order of removal is passed and not before. As there is no prohibition against issuing a show cause notice, the applicant cannot challenge the show cause notice. Therefore we find no cause for filing this application. Hence we reject this application under section 19(3) of the A.T. Act, 1985. However, it is made clear that in case the applicant is aggrieved by any order passed pursuant to the show cause notice, it will be open for him to seek appropriate relief in accordance with law.


(R. RANGARAJAN)
Member (A)


(A.V. HARIDASAN)
Member (J)

Dated: 20th March, 1995.
Dictated in Open Court.

av1/


Deputy Registrar (S)
30/3/95

Contd...

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL, HYDERABAD BENCH

..... HON. MR. A. V. HARIDASAN: MEMBER (J)

AND

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

DATED : 20.3.95

ORDER/JUDGEMENT.

O.A. NO. 178/95

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as Withdrawn

Dismissed for Default

Rejected/Ordered

No order as to costs.

No photocopy



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