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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD

OA.506/95

BETWEEN:

Sri M. Durga Rao .. .. Applicant

And

The Divisional Railway Manager  
South Central Railway  
Secunderabad. .. Respondent.

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS

I K. THIAGARAJAN S/O. V. Krishnaswamy aged about 43 years resident of Secunderabad do hereby solemnly affirm and state as follows. I am working as Senior Divisional Personnel Officer as such I am well acquainted with the facts of the case. I am filing this affidavit on behalf of all the respondents. It is submitted that all the averments made in the OA are denied except those that are specifically admitted hereunder. At the outset it is submitted that the applicant herein had earlier filed OA 1350/94 with a prayer to set aside the order of the respondents removing him from service and to reinstate him. This Hon'ble Tribunal by order dated 2-11-94 remitted the case to the 3rd respondent i.e. the General Manager to consider as to whether it is a fit case for modifying the order of removal as one of the compulsory retirement. It is submitted that in compliance with the order of this Hon'ble Tribunal the 3rd respondent herein had reviewed the case and observed that the case is not fit for any modification in the punishment of removal from service already imposed. Hence the present application is barred by the principles of resjudicata.

Without prejudice to the above it is submitted with regard to Para 6 of the OA that on 28.01-1980, the applicant was booked to work on Train No. Down TAV Goods special with Diesel Loco No. 17660 WDM 2 from Bellampalli to Kazipet. He left Bellampalli at 12.20 Hrs. Before leaving Bellampalli he did not complain any Vacuum defects on the Loco or on the formation.

Received copy  
of Reply Affidavit  
in OA 506/95  
on 12-12-95  
M  
(B.S.A. Sriyanarayana)  
for N. KRISHNARAO  
Counsel for Applicant

*[Signature]*  
12.12.95

Attested  
सहायक कोषागार अधिकारी द.प.र. सिकंदराबाद  
Asst. Personnel Officer, S.C.Rly, SC

*[Signature]*  
Sr. Divisonal Personnel Officer  
S. C. Railway, SC


Sr. Divisional Personnel Officer  
S. C. Railway, SC

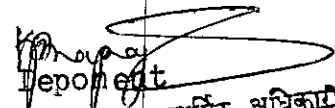
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Hence the Loco and the formation were in good fettle before he started from Bellampalli. His train was detained at Uppal from 19.55 to 21.10 for want of line clear. He started from Uppal at 21.10 Hrs. and at KM 350/12 between Uppal-Hasanparthi Road, at 21.25Hrs. he became unconscious and the train came to a halt. As he was under the influence of intoxicated liquor, his Assistant Driver Sri Buchiramulu and the Guard of the train Sri G. Komariah have sprinkled cold water on his face, but he could not regain his consciousness. The train was detained from 21.25 hrs. in the mid-section of Uppal-Hasanparthi Road at Km.350/12.

As the above train did not arrive at Hasanparthi Road at scheduled time, the Assistant Station Master/Hasanparthi at 22.20 hrs. has given a memo to Sri Kishan Rajaram, Driver of UP Goods, MDD Spl.Loco No.18201 stating that one Down Goods was held up in the middle of the section, between Uppal - Hasanparthi Road and to find out the actual reason for detention and inform him i.e. Assistant Station Master Uppal for necessary action on his arrival to Uppal. Driver Sri Kishan Rajaram located the said train detained at KM 350/12. He stopped his train and went to the Loco and found that Sri Durgarao M was smelling alcohol and was in unconscious state. He found that Sri Durga Rao M. was not in a fit condition to work the train further. In the meanwhile the Guard has issued his memo to be handed over to Assistant Station Master/Uppal for arranging relief Driver to Sri Durga Rao M. Sri Kishan Rajaram left the spot at 23.25 hrs and on arrival to Uppal Station, he handed over the memo to the Assistant Station Master on duty. Assistant Station Master/Uppal informed the Control Office, Secunderabad to arrange replacement to Driver Sri Durga Rao.M and his assistant, Sri Buchiramulu to work the train to Kazipet.

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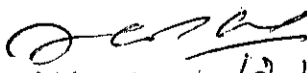
  
Attested. 12.12.95  
सहायक कार्मिक अधिकारी द.प.रे सिक'बाद  
Asst. Personnel Officer, S.C.Rly. SC

  
Depo  
वरिष्ठ/मंडल कार्मिक अधिकारी  
द.प.रे सिक'बाद  
Sr. Divisional Personnel Officer  
S. C. Railway, SC.

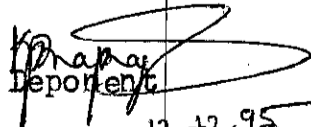
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Driver Sri P. Saman Rao and Assistant Sri Iyiah D. were arranged from Kazipet and they arrived on spot at 00.20 Hrs by another Goods Train from Kazipet. On his examination he found that Sri Durga Rao M. was in conscious state but not in a fit condition to work the train. On his examination of the Loco he found that SA 9 engine brakes were in applied condition. The A.9 vaccum brake is in released condition. The engine's both side brake blocks and bothside wheels got over heated and in discoloured condition. There was no spare coupling available and had to remove the front coupling of the engine and couple up loads and started the train at 2.30 Hrs on 29.1.80. As the road being down gradient to Hasanparthi Road he worked the train with considerable reduced speed and stopped at Hasanparthi Road. He informed Assistant Station Master, Hasanparthi Road that the complete train was brought and then proceeded to Kazipet. Between Hasanparthi Road and Kazipet the experienced power ground on the engine. He uncoupled the ground relay of the loco and worked the train. The train was stopped at Kazipet Chord line for want of passage at 3.10 hrs when the signal was taken off he started the train and brought into Kazipet yard. On arrival of the train into Kazipet yard the Loco was cut off and sent to Diesel Loco Shed/Kazipet for examination and carry out the repairs. On 29.1.80 the Loco was examined by Sri Rangaswamy Diesel Foreman/Kazipet, at 8.00 Hrs in the shed. After his examination of the Loco (No.17660 WDM/2) he had submitted his report stating the following damages were caused to the Loco by the applicant.

1. Both side Engine brakes were overheated and damaged.
2. Bothside engine wheels were over heated and discoloured and damaged.
3. Diesel Loco traction Motor No.1 armature has grounded.

  
Attested: 12.12.75

सहायक कर्मिक अधिकारी द.स.रे. सिक'वाड  
Asst. Personnel Officer, S.C.Rly SG

  
Depot

परिष्कृत मंडल कर्मिक अधिकारी ..4..  
द.स.रे. सिक'वाड  
Sr. Divisional Personnel Officer  
S. C. Railway./SG.

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The cost of replacement of materials and manpower to keep the loco in service has been given as Rs. 1,30,200/-. Hence, from the applied position of the S.A. 9 Loco Brakes and release position of A.9 vacuum brake it is evident that the incorrect operation of braking system by the applicant had caused the the above damages to the Loco and pecuniary loss to the Railway Administration.

It is further submitted that Doctor Sri E.Raja Rao, ADMO/ Kazipet was deputed by the Administration to examine the Driver Sri Durgapao, M. after the above occurrence when the train came to Kazipet chord line and stopped for passage at 3.10 hrs. on 29.1.80. The above Doctor was available at Kazipet chord line and examined the applicant and reported that the applicant was smelling alcohol. He was in conscious state. There were no signs of vomiting (etc) due to taking poisoned food. He has consumed intoxicated liquor 4 to 6 hrs prior to his above medical examination.

As prima facie case was established against the applicant he has been taken up under Rule 3(i) (iii) of Discipline and Appeal rules of Railway Servants 1966. Memorandum SF-5 dated 20-2-80 was served against him on the following charges.

1. He has committed serious misconduct in that on 28.1.80, while working Down TAY Goods Special with Loco No.17660 WDM/2 EX. BPA(Bellampalli) Kazipet he has mismanaged and stalled the train between Uppal-Hasanparthi Road and caused the following damages to Loco.
  - (a) Both side wheels brake blocks were overheated.
  - (b) Both wheels were over heated and discoloured.
  - (c) Traction Motor No.1 armature was grounded.
2. Further he has worked the above train under the influence of intoxicated liquor and fell unconscious on the Loco at KM 350/12 between Uppal-Hasanparthi Road.
3. Also he has consumed intoxicated liquor and under its influence he has mismanaged and caused the above damages to the Loco.

Attested. 12.12.9r

सहायक कार्मिक अधिकारी द.म.रे.सिक्काद  
Asst. Personnel Officer. S.C.Rly. SC

Korapeta  
Depot

वरिष्ठ मेटल कार्मिक अधिकारी  
द.म.रे.सिक्काद  
Sr. Divisional Personnel Officer  
S. C. Railway, SC.

..5.

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It is submitted that as per the rules enquiry was conducted by the Enquiry Officer Sri S.R. Carr, HSD Inspector, Diesel Shed Kazipet against him and submitted his findings to disciplinary Authority, holding him guilty of the charges. The applicant with his Defence Counsel, Sri P.S. Kiran, Chargeman/Lallaguda Shops attended the enquiry the applicant in answer to Q.25 has stated that he has consumed intoxicated liquor at BPA (Bellampalli) on 27.1.1980 and remaining liquor on 28.1.80 before coming on duty. This was also confirmed by ADMO/KAZIPET(KZJ) had examined at 3.10 Hrs. on 29.1.1980 at Kazipet Chord Line and he was found smelling alcohol and also stated that he had consumed intoxicated liquor 4 to 6 hours prior to his above examination. This had coincided with the detention of the train at Uppal from 19.55 to 21.10 hrs. He consumed intoxicated liquor at Uppal when his train was stopped at Uppal from 19.55 to 21.00 hrs. since the circumstances approved that after starting from Uppal at 21.10 Hrs. he became unconscious within a short time i.e. at 21.25 Hrs at Km. 350/12. His statement that he became giddy due to poisoned food taken at Uppal is not true. Since the above Doctor did not find any symptoms of vomittings normally seen when poisoned food is taken but instead he was smelling liquor. Hence, it is clear that he was consumed intoxicated liquor at Bellampalli and also at Uppal and worked the train under the influence of intoxicated liquor which is against safe working of trains and unbecoming of a Railway Servant. As already submitted the position of the S A.9 engine brakes in applied position infer that the applicant was using S.A 9 brakes while working his train under the influence of intoxicated liquor which resulted in said damages to the Loco and unsafe working of the train.

Attested. 12/12/75  
सहायक कार्मिक अधिकारी द.म.रे. सिक'बंद  
Asst. Personnel Officer, S.C.Rly. SG

Deponent  
...6.  
वरिष्ठ मंडल कार्मिक/अधिकारी  
द.म.रे. सिक'बंद  
Sr. Divisional Personnel Officer  
S. C. Railway./SC.

In The Central Administrative Tribunal  
At Hyderabad.

OA 506/95

Between

Sri. M. Durga Rao . . . Applicant

And

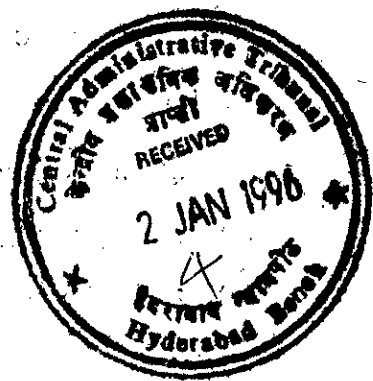
The Divisional Railway Manager

S.C. Railway

Secunderabad

Respondent.

Reply Statement filed on  
behalf of Respondents



Filed by

C. V. Nalla Reddy  
Standing Counsel for Railways.  
Secunderabad

May be filed  
by  
2/1/95