

34

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO.530/95

DATE OF JUDGMENT: 26.4.95

BETWEEN:

Dr. Gudepu Srinivasa Rao

..

Applicant

AND

1. Union of India rep. by the Secretary,
Railway Board, New Delhi.

2. The General Manager,
South Central Railway,
Secunderabad.

3. The Divisional Railway Manager,
SC Railway,
Vijayawada.

..

Respondents

COUNSEL FOR THE APPLICANT: SHRI S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS: SHRI N.V.Ramana
Sr./Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

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

CONTD....

32

O.A.NO.530/95.

JUDGMENT

Dt:26.4.1995

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri S.Ramakrishna Rao, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. The applicant while working as Assistant Divisional Medical Officer (ADMO) was convicted by the order dated 30.10.1991 in CC 19/88 on the file of the III Addl. District & Sessions Judge, ACB Cases, Visakhapatnam and sentenced to R.I. for one year and a fine of Rs.500/- in default to suffer R.I for 3 months. By invoking Rule 17(1) of Railway Servants (Discipline & Appeal) Rules, 1968, the applicant was removed from service by the order dated 24.11.1993 issued by R-I and the same was communicated to the applicant on 6.1.1994. The Criminal Appeal No.1150/91 filed by the applicant against the conviction ^{and} ^c sentence as per the order dated 30.10.1991 in CC 19/88 was allowed and the applicant was acquitted by the order dated 14.2.1994. The applicant brought it to the notice of R-I by his representation dated 17.3.94. ^{Fearing} The applicant ~~is~~ aggrieved due to the inaction on the part of R-I in ^{even after receipt of his, applicant} rejection of the representation, and filed this OA on 17.4.1995.

3. Ofcourse, Rule 14(1) of R.S.(DA) Rules empowers the disciplinary authority to pass appropriate order

contd....

.. 3 ..

after taking into consideration all the consequences on the basis of the conviction which resulted in the sentence ~~xxx~~ for criminal offence, without conducting any inquiry under Rules 9 to 13 of RS(DA) Rules. But when once such conviction and sentence ^{was} ~~was~~ set-aside by the appellate court, the order passed under Rule 14 of RS(DA) Rules on the basis of the said conviction and sentence stands nullified. Ofcourse, it is open to the disciplinary authority to take a decision after perusing the judgment of the court ^{on criminal side,} as to whether it is a fit case for initiation of ~~xxx~~ disciplinary proceeding if it is not yet initiated or continuation of disciplinary proceeding if it is initiated on the basis of the very allegations which are subject matter of the ^{Criminal case,} ~~proceedings~~, even after acquittal, if circumstances warrant. It is also open to the concerned authority even to order suspension if it is a case ~~of~~ for suspension after reinstatement on the basis of the acquittal by appellate ~~xxx~~ or criminal court. But it is unfortunate that even ^{after} it was brought to the notice of R-I by the representation dated 17.3.94 that the applicant was acquitted by the High Court ^{on} ~~in disposing of~~ ^{having} the appeal, no action was taken in this matter.

4. The question as to how the period from removal till the date of reinstatement has to be considered ~~xx~~

contd...

(33)

.. 4 ..

is a matter for the disciplinary authority to decide in accordance with ~~rule~~ ^{law}.

5. In the circumstances, this OA is disposed of even at the admission stage as under:-

The applicant has to report to R-2 along with copy of this order on 1.5.1995. The applicant has to be paid salary and other allowances from the date on which the representation dated 17.3.1995 was received. If the applicant fails to report on 1.5.1995, the period from 1.5.1995 till the date on which he reports to R-2 has to be treated as Leave Without Pay. R-I has to initiate steps expeditiously and preferably by the end of July 1995 in order to decide as to how the period from the date of removal till the date on which the representation ^{dated} 17.3.94 ^{has to be considered} of the applicant was received, It is ~~x~~ needless to say that the said decision has to be taken in accordance with law after giving due notice to the applicant. If the latter is going to be aggrieved in regard to the order that has to be passed for the same, he is free to move this Tribunal under Section 19 of the Administrative Tribunals Act. It is open to R-I to decide after perusal of the judgment of the appellate court in C.A.No.1150/91 as to whether disciplinary action has to be initiated

contd....

(34)

.. 5 ..


against the applicant on the basis of the same allegations which are the subject matter in CC 19/88 referred to supra.

6. The OA is ordered accordingly at the admission stage. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 26th April, 1995.
Open court dictation.


Deputy Registrar (J) CC

To vsn

1. The Secretary, Union of India, Railway Board, New Delhi.
2. The General Manager, S.C.Rly, Secunderabad.
3. The Divisional Railway Manager, S.C.Rly, Vijayawada.
4. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N. V. Ramana, & SC for Rlys, CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm.

c.c. 24 28/4/95
TYPED BY 27/8/95

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)

DATED - 26-4 1995.

~~ORDER~~/JUDGMENT:

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

O.A.No.

in

530/95

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed. *along with OA Copy*

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No. order as to costs.

NO SPARE COPY

Central Administrative Tribunal
DESPATCH

28 APR 1995

a.k.s.
HYDERABAD BENCH.