

(19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

O.A.No. 1045/96
O.A.Sr.No.2570/96.

Date of order : 27.8.1996.

Between

M.Babu Rao

.. Applicant

And

1. The Sr. Divl. Electrical
Engineer/TSRO-O/BG, S.C.Rly.,
Secunderabad.

2. The Divl. Mechanical
Engineer(P),
S.C.Rly., Secunderabad(BG).

3. The Asst. Mechanical
Engineer(P)/BG/SC, S.C.Rly.,
"Sanchalan Bhavan IV Floor",
Mechanical Branch,
Secunderabad-500371. .. Respondents

Counsel for the Applicant .. Shri P.Rathaiah

Counsel for the Respondents .. Shri V.Rajeswara Rao,
SC for Rlys.

C O R A M

Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman

Hon'ble Shri H.Rajendra Prasad : Member(A)

Order

(Per Hon'ble Shri Justice M.G.Chaudhari ; Vice-Chairman)

This is an unfortunate case where the applicant who was working as Yard Khalasi at Bellampalli was awarded the penalty of removal from service by order dated 31.12.92 passed by the disciplinary authority. An enquiry was held under Rule 6 of the Railway Servants (Discipline & Appeal) Rules, 1968 for alleged misconduct. The disciplinary authority accepted the findings of the Inquiry Officer and passed the order of penalty. The order stipulated that the applicant should file an appeal within 45 days. The applicant, however, filed an appeal to the Divl. Mechanical Engineer(P) on 8.8.94 stating therein that he got

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the knowledge of the order only on 10.7.94. According to the applicant there was no response to the said appeal. He submitted another representation to the same authority on 14.12.95 but there was no response to the same. Now the facts reveal that the applicant has been in service with the S.C.Railway since 1977. The order dated 31.12.92 does not indicate as to what charges have been found proved against the applicant to justify the penalty of removal from service. Whatever that might be, it is gathered from the appeal dated 8.8.94 that the applicant had gone to his native village on 18.8.91 as his father was serious with Cholera and expired on 20.8.91 and the applicant also suffered the loss of his brother who died on 21.8.91 and his own son died on 22.8.91 and because of these tragic deaths of the family members he was mentally upset and shocked and lost balance of his mind. In the circumstances he could not report back to duty. He was treated at R.E.C. Warangal and after a long treatment he was able to go back to the office and learnt about the order passed. The applicant has annexed a medical certificate issued by the Medical Officer, R.E.C. Warangal dated 14.12.95 which shows that the applicant had been under his treatment for Depressive Pschosis since 19.8.91 and his behaviour became normal after 14.12.95. Prima facie this certificate supports the statements made by the applicant. He had also stated in his last representation that he could not attend duties from 19.8.91 as he was mentally depressed due to unavoidable family troubles and therefore he was unaware of the proceedings held against him. These circumstances are indeed extraordinary and call for humanitarian and sympathetic consideration of the appeal of the applicant.

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Although the respondents cannot be held to have acted illegally against the applicant at the enquiry yet the circumstances explained subsequently deserve to be taken into account. The charge levelled against the applicant apparently was his unauthorised absence. We are therefore convinced that on humanitarian and sympathetic grounds and in the interests of justice, the Divl. Mechanical Engineer(P) should reconsider the appeal that was filed by the applicant on 8.8.94 even if it has been filed later and after applying his mind to the circumstances mentioned by the applicant and the medical certificate produced by him ^{and} consider whether the order of removal may be set aside or modified.

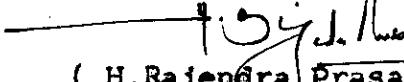
The appellate authority will be well advised ~~in the matter~~ to give an opportunity of personal hearing to the applicant to enable him to produce such record as he may be able to produce to substantiate the fact that he was mentally ill during the material period of the charge. The appellate authority is accordingly directed to dispose of the appeal within a period of two months from the date of receipt of a copy of this order and communicate his decision to the applicant.

2. It is at this stage that the learned Standing Counsel for the respondents produced a file from which it appears that initially the applicant was examined on 18.8.92 and had admitted the fact of his absence from 7.9.89 to 22.2.90 but he was not thereafter available to receive the copy of the enquiry report. Even so, we are of the view that in the circumstances mentioned above the appellate authority is required to consider the appeal of the applicant as indicated above. The file also reveals that no order

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has been passed on the appeal of the applicant. We should have thought that being ~~appellate~~ authority the Divl. Mechanical Engineer(P) ought to have passed some order on the appeal and informed the applicant accordingly. Not passing an order on an appeal would be acting contrary to the law. The O.A. is accordingly disposed of in terms of the directions given hereinabove to the appellate authority to dispose of the appeal on merits. The record produced by Shri V.Rajeswara Rao is returned herewith to him.

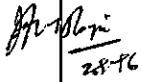

(H. Rajendra Prasad)

Member (A).


(M.G. Chaudhary)
Vice-Chairman.

Dated: 27.8.1996.
Dictated in Open Court.

br.


28-8-96
D.G.O.

0.A.1045/96.

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To

1. The Senior Divisional Electrical Engineer/
TSRO-O/BG, SC Rly, Secunderabad.
2. The Divisional Mechanical Engineer(P)
S.C.Rly, Secunderabad (BG)
3. The Assistant Mechanical Engineer(P)/
BG/SC, S.C.Rly, Sanchalan Bhavan,
IV Floor, Mechanical Branch, Secunderabad-371.
4. One copy to Mr.P.Rathaiah, Advocate, CAT.Hyd.
5. One copy to Mr.V.Rajeswar Rao, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 27/8/1996

ORDER / JUDGMENT

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

in

O.A.No. 1045/96.

T.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.

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH

12 SEP 1996
हृदयवाल न्यायपीठ
HYDERABAD BENCH