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CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD.

..

O.A.No.1320/96.

Date of decision: September 25, 1997.

Between:

R. Narasimha Rao. .. Applicant.

and

1. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager, Vijayawada Division, South Central Railway, Vijayawada.
3. The Senior Divisional Engineer (South), Transport Branch, DRM's Office, South Central Railway, Vijayawada. Respondents.

Counsel for the applicant: Mr. S.R.K. Murthy.

Counsel for the respondents: Mr. D.F.Paul

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S. Jai Parameshwar, Member (J)

JUDGMENT:

(per Hon'ble Sri B.S.Jai Parameshwar, Member (J))

...

Heard Sri Ravindra Kumar for Sri S.R.K.Murthy, the learned counsel for the applicant and Mr. D.F.Paul, the learned counsel for the respondents.

The applicant while working as Senior Gangman, Unit No.1, Ulavapadu on the night of 11/12-9-1994 failed to maintain devotion to duty in that absented unauthorisedly and that his absence caused an accident resulting in derailment ^{me} of 7054 Exp. between



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SKM-UPD at KM. 250/15-13 on 12.9.1994. With respect to the said incident a Charge-sheet was issued ~~to~~ the applicant, which reads as under:

"That the said Sri R.Narasimha Rao while functioning as Sr.Gangman/Unit No.1/ UPD on the night of 11/12.9.1994 failed to maintain devotion to duty in that absented unauthorisedly on the night of 11/12.9.94 without watching the joints at cut rails at KM.259/15-13 and to ensure periodic tightening the loose nuts which resulted in derailment of 7054 Express between SKM-UPD at KM.259/15-13 on 12.9.94." Thus violated Rule 3(i) (ii) of R.S.(Conduct)Rules, 1966.

A detailed enquiry was conducted into the said charge. The Enquiry Officer submitted his report. A copy of the report of the Enquiry Officer was furnished to the applicant on 1.1.1995. The Disciplinary Authority after considering the findings recorded by the Enquiry Officer and by his Proceedings ^{dated} 19.9.1995 agreed with the findings of the Enquiry Officer and imposed the the penalty of removal of the applicant from service.

Against the said order of removal, the applicant submitted an appeal to the Appellate Authority. The Appellate Authority by its order dated 22-12-1995 confirmed the punishment and rejected the appeal. Against the order of the Appellate Authority, a revision was filed before the Revisional Authority. The Revisional Authority confirmed the punishment by its proceedings

dated 22-7-1996.

The applicant has filed this O.A., challenging the orders of the Disciplinary Authority dated 19-9-1995, the orders of the Appellate Authority dated 21-12-1995 and the orders of the Revisional Authority dated 22-7-1996.

A counter has been filed by the respondents stating that the enquiry was conducted ~~against~~ ^{adhering to} the principles of natural justice and the authorities have ~~not~~ taken proper decision in imposing the penalty of removal.

During the course of arguments, the learned counsel for the applicant submitted that while conducting the enquiry, the principles of natural justice were/followed in that certain documents requested by the applicant were not produced before the Enquiry Officer ~~presented to him~~ which ^{were} very essential to show that that his unauthorised absence was beyond his control. He also submits that the witnesses who were cited by the applicant were not called for and if they have been called for and examined the Enquiry Officer would have decided the matter otherwise. The second point made out by the applicant was that he ^{was} on the night duty for over a fortnight. He was given weekly half for one day on that day, subsequently he took two days leave due to his ~~health~~ condition. He also states that he could not join duty as his health had

deteriorated due to his continuous working in the nights earlier. As there was no railway Hospital, in the place where he ^{was} ~~is~~ working, he got himself examined by a private Medical Practitioner. These things appear to be ~~a~~ valid points which ^{✓ has ✓} the appellate Authority [✓] failed to appreciate.

We also perused the Appellate Authority's Order dated 22.12.1995. It does not comply with the ~~basic~~ requirement provided for in Rule 22 of the D&A Rules, 1968. Hence, we have no other alternative except to set aside the appellate order and to remit back to the Appellate Authority for reconsideration of the appeal. As we are setting aside the Appellate Authority's order, the Revisional Authority's ^{✓ automatically ✓} order ~~only~~ stands quashed.

In the result, the following directions are given:

- i) The impugned Order of the Appellate Authority No. B/P/88/VII/95/91 is hereby set aside. The order of the Revisional Authority dated 22.7.1996 is also set aside and the case is remitted back to the Appellate Authority for reconsideration of the appeal of the applicant ^{✓ and ✓} for issuing a judicial speaking order considering all the contentions brought out in the appeal and also adheering to [✓] ~~Sevents~~ the Railway D&A Rules referred to above.
- ii) The applicant, if requests for a personal hearing

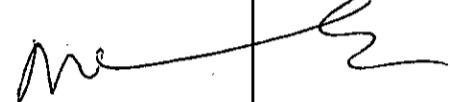
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the same may be given to him.

iii) The appeal shall be disposed of within three months from the date of receipt of a copy of this Order.

The O.A., is ordered accordingly. No Costs.


B.S.JAI PARAMESHWAR,
MEMBER (J)
25.9.97.


R.RANGARAJAN,
MEMBER (A)

Date: 25-9-1997.

Dictated in open Court.


D.R.G

sss.

NOTE :

~~REMARKS~~

C.C. by MONDAY.

(B.O.)

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Copy to:

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. The Divisional Railway Manager, Vijayawada Division, South Central Railway, Vijayawada.
3. The Senior Divisional Engineer, (South), Transport Branch, DRM's Office, South Central Railway, Vijayawada.
4. One copy to Mr.S.R.K.Murthy,Advocate,CAT,Hyderabad.
5. One copy to Mr.D.F.Paul, Addl.CGSC, CAT, Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One duplicate copy.

YLKR

6/10/97
Oct today

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 25/9/97

ORDER/JUDGMENT

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

in
D.A. NO. 1320/96

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLR

II Court

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH

21 OCT 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH