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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 1158/96.

Dt. of Decision : 23-10-96.

B.Narsing Rao

.. Applicant.

Vs

1. The Union of India, Rep. by
the General Manager, SC Rly,
Rail Nilayam, Sec'bad.
2. The Divl.Railway Manager,
Hyderabad MG, Behind Sanchala,
Bhavan, S.P.Road, Sec'bad.
3. The Addl.Divl.Railway Manager,
MG, Hyderabad, Behind Sanchalan
Bhavan, S.P.Road, Sec'bad.
4. The Divl.Mech.Engineer,
(MG), Carriage & Wagon,
Hyderabad Division, Behind
Sanchalan Bhavan, S.P.Road,
Sec'bad.
5. The Carriage & Wagon Superintendent,
MG, Hyderabad Division, Sec'bad
Railway Station Premisses,
Sec'bad-500 025.

.. Respondents.

Counsel for the Applicant : Mr. V.Durga Prasad Rao

Counsel for the Respondents : Mr. C.V.Malla Reddy, SC for Rlys.

CORAM:

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



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ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.))

Heard Mr.V.Durga Prasad Rao, learned counsel for the applicant and Mr. C.V.Malla Reddy, learned counsel for the respondents.

2. The applicant in this OA while working as YKC under R-5, a complaint was ^{lodged} ~~alleged~~ against him and a case under Section 3 (a) of RP (UP) Act was filed in XIII Metropolitan Magistrate, Secunderabad and the case was numbered as C.C.No.185/92. The applicant was kept under suspension from 28-05-92 and ^{was} taken on duty w.e.f.08-12-1992 revoking the order of suspension. The C.C.185/92 was disposed of by the XIII Metropolitan Magistrate vide order dated 25-02-1995⁰ convicting the applicant for offence under section 3 (a) of R.P.(UP) Act ~~for the same offence~~ and released him under section 4(1) & (3) of P.O.Act for the applicant's ^{good} ~~bad~~ behaviour for the period of one year on executing a bond for Rs.2,000/- with one surety and ~~him~~ keeping him for supervision under the concerned probationary officer during that period. On the basis of the above conviction R-4 removed him from service in terms of Rule 14 (i) of D&A Rules, 1968 as the applicant was convicted of a criminal charge. The applicant filed an appeal against the same to R-3 who modified the punishment of removal to that of compulsory retirement vide order No.Y.M.315.S.2.LGD. dated 17-09-95 (Annexure-VIII). R-3 advised the applicant to prefer an appeal against this order to ^{Chief} ~~Chief~~ Rolling Stock Engineer (CRSE), Secunderabad within 45 days from the date of receipt of the said memorandum. The applicant preferred an appeal dated 9-1-96 (Annexure-IX) to the CRSE, Secunderabad through proper channel and it is stated that the said appeal is still pending.

3. In the mean time the applicant filed an appeal in the Court of Metropolitan Sessions Judge, Hyderabad vide Criminal Appeal No.454/95. That appeal was disposed of by the Metropolitan Sessions Judge, Hyderabad vide his order dated 16-07-96 (Annexure-XI). The learned Metropolitan Sessions Judge had allowed the appeal ~~xxx~~ setting aside the conviction by the trial court and acquitted the applicant of charges under section 3 of R.P.(UP) Act. However in para-6 of the judgement it is stated that the applicant is entitled for a reasonable benefit of doubt in his favour. After receipt of this judgement of Metropolitan Sessions Judge, Hyderabad the applicant filed an appeal to R-2 vide his appeal dated 12-8-96 (Annexure-XII) for taking him back on duty with all consequential benefits. It is stated that after filing this OA the applicant has received a letter from R-2 advising him to submit an appeal to review authority viz., CRSE, Sec'bad duly enclosing the certified copy of the judgement passed by the Metropolitan Sessions Judge in criminal appeal No. 454/95 dated 16-7-96. The applicant produced a representation addressed to CRSE dated 23-09-96 in pursuance of the order given to him by R-2 ^{vide} No.Y/M.315.S.2.LGD dated 19-09-96. It is stated that the representation to CRSE, Secunderabad dated 23-09-96 is still pending.

4. This OA is filed praying for setting aside the order of compulsory retirement passed by R-3 vide memorandum No.Y.M.315.S.2.LGB. 17-09-95 (Annexure-VIII) and to take back the applicant on duty with all consequential benefits.

5. The main contention of the applicant in this OA is that as he has been exonerated of charges by the appellate Court his compulsory retirement has to be set aside and he has to be taken back duty with all consequential benefits. To that effect he had already filed a representation addressed to CRSE, Sec'bad vide his representation dated 23-09-96. This representation is still pending.

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In view of the above circumstances it is justifiable if a direction is given to the Chief Rolling Stock Engineer, Secunderabad to dispose of his representation dated 23-09-96 in accordance with law after perusing the judgement of the Metropolitan Sessions Judge dated 16-7-96 in ^{the} a criminal appeal No.454/95 expeditiously.

6. In the result the following direction is given:-

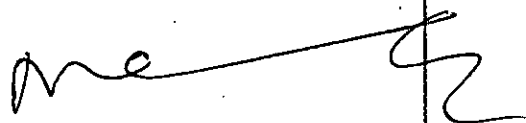
The Chief Rolling Stock Engineer, Sec'bad should dispose of the representation of the applicant dated 23-09-96 in accordance with law after carefully perusing the judgement of the Metropolitan Sessions Judge, Hyderabad dt. 16-7-96 in a criminal appeal No.454/95 within a period of two months from the date of receipt of a copy of this judgement.

7. It is needless to say that in case the applicant is going to be aggrieved by the reply to be given to his representation dated 23-09-96 he is free to approach this Tribunal by filing a fresh OA under section 19 of the A.T.Act, 1985.

8. The OA is disposed of as above at the admission stage itself. No costs.

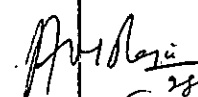
The letter No.Y/M.315.S.2.LSD dated 19-09-96 of R-2 and appeal of the applicant dated 23-09-96 addressed to CRSE, Sec'bad are taken on record.

(Registry should send a copy of this OA with the enclosures along with the judgement to CRSE, Sec'bad.)



(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : 23rd Oct. 1996.
(Dictated in the Open Court)


23/10/96
D-R (S)

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