

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 1249/96

Date of Order : 28.8.98

BETWEEN :

Mohd. Bin Ali

.. Applicant.

AND

1. The South Central Railway,  
Represented by its General Manager,  
Rail Nilayam, Secunderabad.
2. Asst. Electrical Engineer,  
(Disciplinary Authority),  
Hyderabad (Metre Gauge) Division  
Office of the Divisional Railway Manager,  
S.C.Rly., Secunderabad.
3. Senior Electrical Engineer,  
(Appellate Authority),  
Hyderabad (Metre Gauge) Division,  
O/o The Divisional Railway Manager,  
S.C.Rly., Secunderabad.
4. Asst. Divisional Railway Manager,  
(Revision (Review) Authority),  
Hyderabad (Metre Gauge) Division,  
S.C.Rly., Secunderabad.
5. Chief Electrical Foreman,  
Hyderabad (Metre Gauge) Division,  
O/o Divisional Railway Manager,  
S.C.Rly., Secunderabad.

6. Mr. S. Guru

.. Respondents.

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Counsel for the Applicant

.. Mr. G.S. Rao

Counsel for the Respondents

.. Mr. V. Dhimanna

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CORAM :

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

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

*[Handwritten signatures]*

ORDER

X As per Hon'ble Sri R.Rangerajan, Member (Admn.) X

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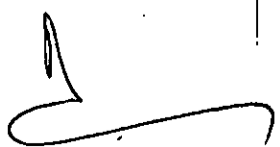
Mr.G.S.Rao, learned counsel for the applicant and Mr.V.Bhimanna, learned standing counsel for the respondents.

2. The applicant while working as Electrical Pump Attendant in the Group-D post was removed from the service by the impugned order No.YP/DAR/Elec/17/91, dated 23.3.94 (A-15). Against that order the applicant filed an appeal dated 2.1.95 (A-17). That appeal was disposed of by the appellate authority by order No. YP/DAR/Elec/17/91, dated 5.7.95 (A-18) rejecting his appeal. The applicant had filed a revision petition dated 9.8.95 (A-20). It is stated that no reply had been given for that revision petition.

3. Aggrieved by the above the applicant filed OA praying for setting aside the impugned order No.YP/DAR/Elec/17/91, dated 23.3.94 and the appellate authority order No.YP/DAR/Elec/17/91, dated 5.7.95 made by R-3 and for a consequential direction to the respondents to reinstate him into service paying full salary from the date of removal from service.

4. The learned counsel for the applicant contends that the applicant was never served with the charge sheet. Even otherwise he was not given an opportunity to defend his case by contesting his case in the enquiry. The enquiry dates were fixed and informed to him much later after the enquiry was over. The applicant also submits that subsequent enquiries were held when he was in sick list attended by the railway doctors. Hence it will be incorrect to state by the respondents that the applicant was not available for the enquiry.

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5. The respondents submit that the charge sheet was not served on him as his address was not known. The applicant submitted a letter on 11.3.93 stating that he cannot continue in service due to his ill health and also stated that he was not in a position to continue in service. Accordingly the date of enquiry was fixed on 10.7.93 and the applicant was informed so to his house address. The respondents allege that even though the applicant had received the notice he did not attend the enquiry. Hence the ex-parte enquiry was ordered and he was removed on the basis of the enquiry. All opportunities were given to the applicant and the applicant failed to take notice of the opportunities given to him. Hence his removal from service is in order.

6. In order to verify the submissions of both sides we have gone through the appeal submitted by him dated 2.1.95 (A-7). The applicant had given certain ~~dates~~ <sup>in regard to the enquiry fixed on 20.10.93</sup>. The administration informed him on 28.10.93. The respondents have not taken sufficient action to serve charge sheet on him. The enquiry was conducted without giving him sufficient opportunity to defend his case.

7. A perusal of the reply to the appeal leads us to believe that the respondents organisation had not adhered to the Rule 22 (2) of D&A Rules of <sup>the</sup> Railways while passing the order. Hence we feel that the appeal has to be looked into ~~once again~~ <sup>again</sup> by the appellate authority adhering to the Rule 22 (2) of Railway D&A Rules. While doing so the appellate authority should examine whether the applicant was given sufficient opportunities to defend his case and principles of natural justice had been fully followed. Non service of the charge sheet and also informing late regarding the enquiry fixed on 20.10.93 is against the extant rules. After examining the above

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*the appellate authority*

should issue a detailed speaking order in this connection.

7. In view of what is stated above the appellate authority order dated 5.7.95 is hereby set aside and the appeal is remitted back to the appellate authority for reconsideration of the whole case ~~denovo~~ keeping <sup>in mind</sup> our observations mentioned above. The applicant, if he desires, should be given a personal hearing before disposing of the appeal.

8. Time for compliance is 2 months from the date of receipt of a copy of this order.

9. The OA is ordered accordingly. No costs.

*[Signature]*  
(B.S. JAI PARAMESHWAR )  
Member (Judt.)  
28.8.98

*[Signature]*  
( R.RANGARAJAN )  
Member (Adm.)

Dated : 28th August, 1998

(Dictated in Open Court)

sd

*[Signature]*  
3-8-98  
DR

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Copy to:

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. Asst. Electrical Engineer, (Disciplinary Authority), Hyderabad (Meter Gauge) Division, O/O Divisional Railway Manager, South Central Railway, Secunderabad.
3. Senior Electrical Engineer; (Appellate Authority) Hyderabad (Meter Gauge) Division, O/O The Divisional Railway Manager, South Central Railway, Secunderabad.
4. Asst. Divisional Railway Manager, (Revision (Review) Authority), Hyderabad (Meter Gauge) Division, South Central Railway, Secunderabad.
5. Chief Electrical Foreman, Hyderabad (Meter Gauge) Division, O/O Divisional Railway Manager, South Central Railway, Secunderabad.
6. One copy to Mr. S.S. Rao, Advocate, CAT, Hyderabad.
7. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
8. One copy to D.R(A), CAT, Hyderabad.
9. One duplicate copy.

YLKR

30/9/98

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II COURT

TYPED BY  
COMPILED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 28/8/98

ORDER/JUDGMENT

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

in

C.A.NO. 1249/96

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

