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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No.683/1996.
- - - - -

Date of decision: 16th February, 1998.
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Between:

D.Charles. Applicant.

and

1. The Divisional Railway Manager,
Visakhapatnam.
2. Sri T.Stanley Babu, Divisional
Railway Manager, S.E.Railway,
Visakhapatnam.
3. The Chairman, Railway Board,
Rail Bhawan, New Delhi
representing Union of India. Respondents.

Counsel for the applicant: Sri C.Suryanarayana.

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

CORAM:

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

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

Jai

O.A.No.683/96.

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

Heard Sri C.Suryanarayana, the learned counsel for the applicant and Sri D.F.Paul, the learned counsel for the respondents.

The applicant was punished for misbehaviour on the basis of a complaint petition dated 23.10.1989 filed by one Sri P.S.Kasibhatla, a Railway Employee. The said punishment was challenged in this Tribunal in O.A.1120/92. On 12.9.1995 in the said O.A., this Tribunal directed the Respondent No.3 that is, the Reviewing Authority, to dispose of the Review Petition dated 28.5.1991 expeditiously. Accordingly, the Respondent No.3 (in the said O.A.) considered the review petition and passed the order dated 5.1.1996/5.2.1996.

Being aggrieved, the applicant has filed this O.A., challenging the order dated 5.1.1996/5.2.1996 passed by the Respondent No.1.

The applicant's main contention is that the Respondent No.1 has not considered his review petition on merits and thus the impugned order was passed maliciously and with a mala fide intention of victimising him even while allowing the real culprit to escape.

In the impugned order, the respondent No.1 has observed as follows:

"In your defence you have stated that the complainant Sri Kasibhatla was not a bonafide passenger and brought his family without any travel authority. It has been further contended by you that Sri Kasibhatla tried to enter with three of his family members into the coupe occupied by you along with your wife.

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These two points do not appear to have been taken into consideration by the Disciplinary Authority while considering them & explanation."

The respondent No.1 formed an opinion that the Disciplinary Authority as well as the Appellate Authority had failed to consider the two points noticed by him. When those Authorities failed to consider those two points, it was his duty to consider them and give a finding by a speaking order in the review petition. Instead of doing so, the respondent No.1 simply stated in his Order that justice would be met if the punishment of stoppage of increment for one year without cumulative effect is reduced to that of Censure, on the plea that the complaint is trivial nature and he is taking a lenient view of the matter.

The learned counsel for the respondents submitted that the punishment has been reduced to that of Censure and hence the applicant would not be put to any disadvantage on account of the punishment of Censure. Further, he submits that the petition was decided by the Respondent No.1 as the complaint was a trivial one. Hence he submits that the application may be dismissed.

The explanation given by the learned counsel for the respondents is not at all acceptable. The main issue raised by him is in regard to the two points referred to above. Respondent No.1 ought to have considered the truth or otherwise of the complaint and not whether it was of a trivial nature or not.

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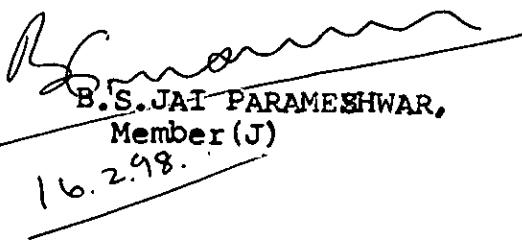
Censure being one of the penalties provided under the Rules, that punishment cannot be allowed to stand on any trivial consideration.

We feel that Respondent No.1 has not disposed of the review petition of the applicant with due application of his mind. We are of the opinion that the case has to be remitted back to Respondent No.1 with a direction to reconsider the issues involved in the review petition of the applicant in accordance with law and pass a reasoned speaking order. If it is necessary, he may also remit the case back for consideration of those two points to the Disciplinary Authority which were not considered by the Disciplinary Authority as stated by the Respondent No.1 in the impugned Order dated 5.1.1995/5.2.1995.

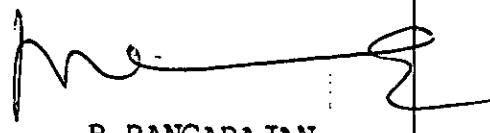
In view of what is stated above the impugned order dated 5.1.1995/5.2.1996 is set aside.

The case is remitted back to the Respondent No.1 for considering afresh the review petition dated 28.5.1991 in accordance with law and pass a reasoned speaking order within a period of two months from the date of receipt of a copy of this Order.

With the above direction, the O.A., is disposed of.
No costs.

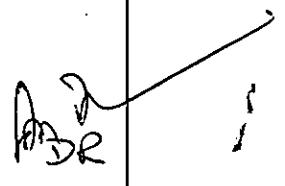

B.S.JAI PARAMESHWAR,
Member (J)

16.2.98.


R.RANGARAJAN,
Member (A)

Date: 16-2-1998.

Dictated in open Court.


DR

Copy to:

1. The Divisional Railway Manager,
Visakhapatnam.
2. Sri T. Stanlay Babu, Divisional Railway Manager,
South Eastern Railway, Visakhapatnam.
3. The Chairman, Railway Board,
Rail Bhavan, New Delhi.
4. One copy to Mr. U. Suryanarayana, Advocate, CAT, Hyderabad.
5. One copy to Mr. D. F. Paul, CGSC, CAT, Hyderabad.
6. One copy to D. R (A), CAT, Hyderabad.
7. One copy to HBSJP, M(J), CAT, Hyderabad.
8. One duplicate copy.

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. BURANGARAJAN : M(A)

AND

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

DATED: 16/2/98

ORDER/JUDGMENT

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

in

D.A.NO. 683/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

