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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Original Application No. 791/96.

Date of Order : 30th July, 1996.

Between :-

D.Bhaskara Rao

...Applicant

And

1. Union of India,
represented by its
Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Senior Divisional Operating
Manager, South Central Railway,
Vijayawada.
4. The Divisional Railway Manager,
South Central Railway, Vijayawada.

...Respondents

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Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys

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CORAM:

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

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

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(Oral Orders per Hon'ble Justice Shri M.G.Chaudhari,
Vice-Chairman).

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The impugned order dt.17-4-95 itself provided that the applicant may submit a representation within 60 days against the said show cause notice if he was opposed to the proposal. Before filing the representation, applicant filed MA 484/95 in OA 1099/92 and it was stated in the order there on dt.8-6-95 that it was for the applicant to reply to the show cause notice and it was left open to him to approach the Tribunal in accordance with the Law if he was aggrieved by the final order. Consistently ~~there~~ ^{on the representation} ~~the~~ liberty to approach Tribunal was given to the applicant. The applicant thereafter filed representation dt.1.7.95. It is now contended that no reply has been received to the said representation and therefore the impugned show cause notice may be quashed as it is erroneous.

2. In our opinion it is desirable that the concerned authority deals with the representation dt.1-7-95 on merits and decide the same by speaking order so that if the applicant is aggrieved, he can adopt remedies for which liberty was given by order dt.8-6-95. While we are directing the respondents to decide the representation on merits, we would like to direct the said authority to examine the position as to whether it has been correctly stated in the impugned show cause notice that the penalty of removal from service was set aside only on non-compliance of constitutional provisions and not on the merits of the case because we do not find from the judgement

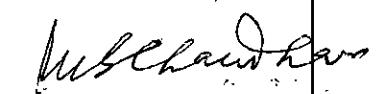
that non-compliance with a constitutional provision was
in terms
stated as a reason for setting aside the order of removal.

Recourse to FR ~~54~~ (a)(II)(i) has been taken in the light
of the above view of the order. This aspect therefore needs
to be examined by the authority in order to determine whether
~~xx~~ the FR quoted would be applicable to the case of the
applicant or not. We also do not have the advantage of
knowing the nature of the acquittal of the applicant in
the criminal case. The authority concerned shall have due
regard to the finding as recorded in the said judgement before
deciding the representation. In the result, following order
is passed :-

"The Sr.Divisional Operating Manager,
S.C.Railway, Vijayawada is directed to
dispose of the representation dt.1.7.95
on merits with a speaking order in the
light of the observations made herein
above and in any event within a period
of two months from the date of receipt
of a copy of this order and convey the
decision thereon to the applicant forth-
with after it is taken."

3. The Original Application is disposed of in above
terms without referring to the merits of the case, which are
left open. For the purpose of deciding this O.A., we have
heard Shri G.V.Subba Rao, counsel for the applicant and
Shri N.R.Devaraj, Sr. Central Government Standing Counsel for
the Respondents. No order as to costs.


(H.RAJENDRA PRASAD)
Member (A)


(M.G.CHAUDHARI)
Vice-Chairman

Dated: 30th July, 1996.
Dictated in Open Court.

Deputy Registrar
Deputy Registrar O.C.C.

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O.A. 791/96

To

1. The Secretary, Union of India,
Railway Board, Rail Bhavan, New Delhi.
2. The General Manager,
SC Rly, Railnilayam, Secunderabad.
3. The Senior Divisional Operating Manager,
S.C.Rly, Vijayawada.
4. The Divisional Railway Manager,
SC Rly, Vijayawada.
5. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC forRlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

pvm.

9/3/96
I COURT

TYPED BY

CHECKED BY

COMPARED BY

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: 30-7-1996

~~ORDER~~ JUDGMENT

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

in

O.A.No. 595/96 791/96

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.

pvm

