

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1733/97

Date of Order : 29.1.98

BETWEEN :

Ch.Babu Rao

.. Applicant.

AND

1. Divisional Railway Manager,
S.C.Rly., Vijayawada Division,
Vijayawada.
2. Divisional Personnel Officer,
S.C.Rly., Vijayawada Division,
Vijayawada.
3. Divisional Engineer (West),
S.C.Rly., Vijayawada.
4. Assistant Engineer,
S.C.Rly., Bhimavaram,
East Godavari Dist.
5. Permanent Way Inspector,
Gang No.3, S.C.Rly.,
Bhimavaram, E7G.Dist.

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.P.Krishna Reddy

Counsel for the Respondents

.. Mr.K.Siva Reddy

- - -

CORAM:

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

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

- - -

O R D E R

{ As per Hon'ble Shri R.Rangarajan, Member (Admn.) }

- - -

Heard Mr.Rama Rao for Mr.P.Krishna Reddy, learned
counsel for the applicant and Mr.K.Siva Reddy, learned
standing counsel for the respondents. -

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[Signature]

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2. The applicant joined the Railways as a Casual Gangman in Gang No.3 of South Central Railway, Bhimavaram in 1963. He was brought on temporary status and his services were regularised after screening on 10.5.89. While he was working as a Gangman he received an order No.11/A/BVRM/CHB, dated 16.5.95 (A-1) issued by R-4. A charge memo dated 20.5.95 for minor penalty under Rule 11 of Railway Servants (Discipline and Appeal) Rules 1968 was issued to him. He submitted his explanation and it is stated that without reference to the explanation, ^{by} memo No.11/A/BVRM/CHB dated 13.11.95 he was awarded punishment of stoppage of increment from Rs.950-970 in the scale of pay of Rs.800-1150 due on 1.3.96 for a period of 3 years. The applicant submits that ^{as} he ^{has} not received any reply for his explanation he filed OA.484/96 on the file of this Tribunal to quash the order of suspension dated 16.5.95 and to reinstate him in service. On that day the learned counsel for the respondents produced the punishment order dated 13.11.95 and it was also brought to the notice of this Tribunal that the ^{Suspension} ~~punishment~~ order issued on 16.5.95 was revoked by the order dated 21.11.95 (page-10) (A-4). The applicant filed an appeal against the punishment on 7.10.96 and it is stated that no reply has been given to his appeal. It is stated that inspite of the revocation of the suspension order, the applicant ^{has} ~~is~~ not been permitted to join duty.

3. This OA is filed to set aside the order of the Assistant Engineer, S.C.Railway, Bhimavaram Respondent No.4 herein order No.11/A/BVRM/CHB, dated 13.11.95 (A-3) whereby the punishment ^{was} ~~order~~ imposed on him for a period of 3 years and further permit the applicant to join duty as Gangman in Gang No.3 of S.C.Railway Bhimavaram forthwith and pay the arrears of salary from 22.11.95 and give all the consequential benefits ^{due} to the applicant.



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4. The relief consists of (1) setting aside the punishment order dated 13.11.95 (2) permission to reinstate him in service as Gangman in Gang No.3, S.C.Railway, Bhimavaram and ^{(3) to} pay him arrears.

5. The first relief cannot be entertained as an appeal is pending and the Appellate Authority will issue necessary orders on the appeal. The only point is whether the applicant can be reinstated after revocation of the suspension order.

6. The learned counsel for the respondents submits that the applicant did not report for duty to the appropriate authority even after the revocation of the suspension order. This fact has been brought to his notice by placing the revocation of the suspension order and reinstating him in the service on the notice board on 23.11.95 itself. The learned counsel for the respondents further submits that the applicant is wanting to be posted in a ^{Sedantary} ~~secondary~~ light job. Such a request cannot be accepted unless there is a reason to do so. Till the applicant ^{reports for} ~~joins back~~ duty such a request cannot be considered. Further the applicant is out of service for the last 3 years. Hence before his reinstatement he has to undergo medical test for testing his fitness to work as Gangman. Even now, if the applicant reports for the duty to the PWI, Bhimavaram, he will ^{be} ~~send~~ ^{it} for medical test and on the basis of the medical test further action will be taken. The learned counsel for the respondents submitted that there is no difficulty in reinstating him as stated above.


7. In view of the above submission of the respondents the applicant should report to the PWI, Bhimavaram on or before 6.2.1998. If he has to undergo medical test, the PWI concerned

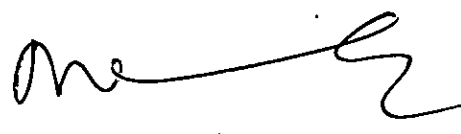
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shall issue necessary letter directing him to ^{appear before} the medical authorities. If he can be reinstated as ^{the report of} per/medical authority he shall be posted suitably as a Gangman. In case he has been sent for medical test then the applicant should report to the concerned ^{medical} authority carrying the letter of PWI along with him. Once the medical test is over he should obtain the release certificate from the Doctor concerned and report to the PWI on the next day itself. Further action should be taken by the PWI later.

8. The learned counsel for the applicant submitted that he is the subsistence allowance not paid ^{not} for the period of his suspension. It is ^{not} known whether he was paid subsistence allowance for the period when he was absent. Further it is also not clear for what period he has to be paid. Hence the applicant may submit a suitable representation to the PWI for paying him ^{the subsistence allowance for} the period he feels he is entitled to. If such a representation is received the authorities shall decide the case in accordance with the law.

9. With the above directions the OA is disposed of at the admission stage itself. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)

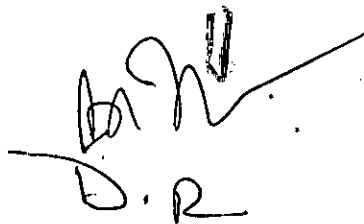

(R. RANGARAJAN)
Member (Adm.)

29-1-98

Dated : 29th January, 1998

(Dictated in Open Court)

sd


D.R.

OA.1733/97

Copy to:-

1. The Divisional Railway Manager, South Central Railway, Vijayawada Division, Vijayawada.
2. The Divisional Personnel Officer, South Central Railway, Vijayawada Division, Vijayawada.
3. The Divisional Engineer (West), South Central Railway, Vijayawada.
4. The Assistant Engineer, South Central Railway, Bhimavaram.
5. The Permanent Way Inspector, Gang No.3, South Central Railway, Bhimavaram, E.G.Dist.
6. One copy to Mr. P.Krishna Reddy, Advocate, CAT., Hyd.
7. One copy to Mr. K.Siva Reddy, Addl.CGSC., CAT., Hyd.
8. One copy to D.R.(A), CAT., Hyd.
9. One duplicate copy.

srr

4/2/98
cc To day
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED: 29/1/98

ORDER/JUDGMENT

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

in

B.A.NO.

1733/97

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

