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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

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C.A.48/97.

Dt. of Decision : 16-09-98.

S.Sarvaruddin

.. Applicant.

Vs

1. The Union of India, rep. by the General Manager, SC Rly, Rail Nilayam, Sec'bad.
2. The Chief Operating Supdt., SC Rly, Rail Nilayam, Sec'bad.
3. The Divl.Rly.Manager(BG), Sanchalan Bhavan, SC Rly, Sec'bad.
4. The Sr.Divl.Mech.Engineer (Per)(BG), SC Rly, Sanchalan Bhavan, Sec'bad.
5. M.Bhasker Rao (Enquiry Officer) Sr.Loco Inspector (BG), SC Rly, Sanchalan Bhavan, Sec'bad.
6. The Additional General Manager, SC Rly, Sec'bad.

.. Respondents.

Counsel for the applicant : Mr.N.Raghavan

Counsel for the respondents : Mr.J.R.Gopala Rao, SC For Rlys.

CORAM:-

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

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

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ORDER

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

None for the applicant. Heard Mr.J.R.Gopala Rao, learned counsel for the respondents.

2. The applicant in this OA was removed from service by R-3 by order dated 18-04-89. His appeal dated 9-9-89 to R-2 was also rejected and confirmed the earlier order of removal. The applicant filed revision petition under Rule 25 of the Railway Servants (D&A) Rule, 1968 to the General Manager, R-1 who also confirmed the order of removal. In view of the above, the applicant filed OA.91/92 on the file of this Bench which was disposed of on 5-4-95. On the basis of that observations made in para-9 of the judgement dt. 5-4-95 in OA.91/92 the ~~revising~~ authority has considered his case once again and once again confirmed the order of removal by the impugned order No.P.94/SC/SS/1198 dated 18-08-95 (Annexure-II).

3. This OA is filed to set aside the order No.P-94/SC/SS/1198 dated 18-08-95 (Annexure-II) by holding the same as null and void and contrary to the direction of this Tribunal as excessive and for a consequential direction to set aside the order and consequential benefits of continuity of service by reinstating the applicant.

4. The whole case has to be reviewed in the light of the judgement given in OA.91/92 passed on 5-4-95. We have perused the judgement enclosed as Annexure-I to the OA. It has been clearly stated in the order in para-7 that the judicial review over decisions of domestic Tribunals is limited. If, on the basis of the evidence adduced, two views can be taken and if the enquiry officer's disciplinary authority has taken a particular view, it cannot be termed as perverse. From that point of view, the Members in that OA refrained from expressing any view on the enquiry report and the resultant finding as unsustainable. The applicant thereafter put forward some personal difficulties and requested for reduction of punishment on compassionate grounds. In view of that submission

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the then Bench directed the respondents i.e., Revising authority to reconsider the order dated 19-03-91 and suitably modify the penalty so as to meet the ends of justice in the light of observation made in that judgement. The said observation is reproduced below:-

"In view of the above, we are of the considered view that the penalty of removal from service is excessive. The applicant had rendered, on the date of incident, about 34 years of service and was left with hardly a year to retire. We see no justification why he ~~is~~ and his family members should be deprived of the pensionary benefits for an offence of this nature. We therefore dispose of this application with a direction to the General Manager (B) (Revising Authority) to re-consider his order dated 19-03-91 and suitably modify the penalty so as to meet the ends of justice in the light of observations made above".

5. In view of that observations extracted above, the impugned order dated 18-8-95 was passed. Before we examined the impugned order dated 18-8-95 we would like to observe that the para-9 extracted above is in the nature of a suggestion. The then Bench itself had said that the judicial review over decisions of domestic Tribunals is limited. In view of that it cannot be held ~~as~~ that a direction was given to the respondents to reduce the penalty below that of removal from service. If such a view is taken then the judicial review means unlimitted powers which is not the view taken by the previous Bench also. Hence, it has to be held that the extracted portion of the observations of the previous Bench is only to the effect to reconsider the penalty ~~six~~ and review if the respondents felt that it is necessary to be reviewed. In that context, the impugned order dated 18-8-95 has to be examined. It has been stated very clearly in para-2 & 3 that the passing of 'stop' signal at danger is a very serious offence. It ~~will~~ lead ~~xxxxx~~ to ~~accident~~ <sup>may</sup> simple derailment or it may cause severe accident like ~~accident~~ resulting in death or grievous hurt. When such ~~xx~~ an effect may ~~accuse~~ if a Stop Signal is passed at Danger and the life of the travelling public and ~~the~~ damaged property is ~~enormous~~ a view cannot be taken that the respondents authorities have to treat ~~xx~~

*R*

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the observation made in the OA.91/92 as a direction and should reduce the punishment. It is also seen from para-3 of the impugned order that the applicant was earlier also removed from service in 1985, but reinstated subsequently.

6. In the OA no grounds ~~has~~<sup>ve</sup> been stated as to why the observations made in the earlier OA is to be treated as a direction and that direction is binding on the respondents to reduce the penalty below that of the removal from service. The contention of the applicant is that since the Tribunal has said that a lenient view should be taken ~~and~~ that the removal has to be modified even if there ~~is~~<sup>are</sup> reasons to adhere to that order of removal. We do not consider this contention as a feasible contention. Hence, this contention has to be rejected.

7. In view of what is stated above, we do not find any irregularity in passing of the impugned order dated 18-8-95. The respondents could have reduced the penalty because of the long service. But they refused to do that in view of the repercussion involved in passing of 'Stop' signal at Danger. Hence, the Tribunal cannot compel ~~that~~<sup>the respondents</sup> to reduce the punishment.

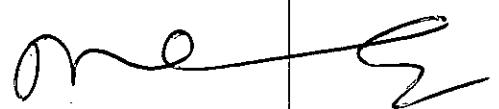
8. In view of what is stated above, we find no merits in this OA. Hence, the OA is dismissed. No costs.

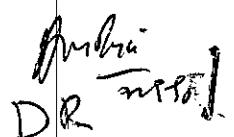
  
(B.S.JAI PARAMESHWAR)  
MEMBER(JUDL.)

18.9.98

Dated : The 18th Sept. 1998.  
(Dictated in the Open Court)

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(R. RANGARAJAN)  
MEMBER(ADMN.)

  
DR. M.P.

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**Copy to:**

1. The General Manager, South Central Railway,  
Railnilayam, Secunderabad.
2. The Chief Operating Superintendent, South Central Railway,  
Railnilayam, Secunderabad.
3. The Divisional Railway Manager(BG), Sanchalan Bhavan,  
South Central Railway, Secunderabad.
4. The Sr. Divisional Mech. Engineer(Per.)(BG),  
South Central Railway, Sanchalan Bhavan, Secunderabad.
5. The Addl. General Manager, South Central Railway,  
Secunderabad.
6. One copy to Mr. N. Raghavan, Advocate, CAT, Hyderabad.
7. One copy to Mr. J. R. Gopala Rao, Addl. CGSC, CAT, Hyderabad.
8. One copy to D. R(A), CAT, Hyderabad.
9. One duplicate copy.

YLKR

9/10/98 (2) II COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPR VED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 18/9/98

ORDER/JUDGMENT

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

in  
O.A.NO. 48/97

~~ADMITTED AND INTERIM DIRECTIONS  
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

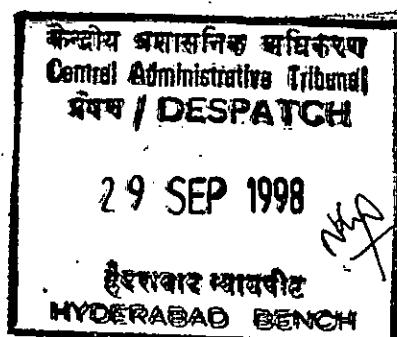
~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLKR



To condone the delay  
of 81 days in  
representation.

BEFORE THE HON'BLE CENTRAL ADMINI-  
STRATIVE TRIBUNAL BENCH::AT::  
HYDERABAD.

M.A.No. of 1997

in

O.A.S.R.No.3258 of 1996

Between:-

S. Sarvaruddin

..Petitioner/  
Applicant

And

The Union of India  
& 5 others

.. Respondents/  
Respondents



PETITION FILED U/8/148 OF C.P.C.

Filed on: 2-1-1997.

Filed by:-

M/s.N.RAGHAVAN,  
& V.SRI HARI,  
Advocate for petitioner/  
applicant.

May 8/97  
8/97

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH:::  
AT::HYDERABAD.

M.A.No. 43 of 1997

in

O.A.S.R.No. 3258 of 1996

Between:-

S.Sarvaruddin  
s/o.late Sri S.Imamuddin,  
aged 57 years,Occ:Removed as  
Driver 'B' from S.C.Railway,  
R/o.H.No-1-5-26, Khajipet,  
Warangal District.

.. Petitioner/  
Applicant

And

1. Union of India, rep. by  
The General Manager, S.C.Railway,  
"Rail Nilayam", Sec'bad.
2. The Chief Operating Supdt.,  
S.C.Railway, Rail Nilayam,  
Sec'bad.
3. The Divisional Railway Manager (BG),  
Sanchalan Bhavan, S.C.Railway,  
Sec'bad.
4. The Sr.Divl.Mechanical Engineer,  
(Per)(B.G)..  
Souther Central Railway, Sanchalan  
Bhavan, Sec'bad.
5. Sri M.Bhasker Rao (Engineer Officer),  
Senior Loco Inspector (B.G.)  
S.C.Railway, Sanchalan Bhavan,  
Sec'bad.
6. The Additional General Manager,  
South Central Railway,  
Sec'bad.

.. Respondents/  
Respondents

5(4) of CAT Rules 1996

PETITION FILED U/~~148~~ 148 OF C.P.C.

For the reasons stated in the accompanying affidavit,  
it is therefore prayed that this Hon'ble Tribunal may be  
pleased to enlarge the time for representing the above O.A.S.R.  
and pass such other order or orders as this Hon'ble Tribunal  
may deems fit and proper in the circumstances of the case.

HYDERABAD.

N. Rayavar

DT: 2-1-1997.

COUNSEL FOR THE PETITIONER/  
APPLICANT

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH::  
AT::HYDERABAD.

M.A.No. 63. of 1997

in

O.A.S.R.No.3258 of 1996

Between:-

S.Sarvaruddin .. Petitioner/  
Applicant

And

Union of India & 5 others ... Respondents/  
Respondents

A F F I D A V I T

I, V.Sri Hari s/o. late V. Istharaiah, aged about 38 years, Occ: Advocate, R/o.Hyderabad, do hereby solemnly affirm and state on oath as follows:-

1. I am the Junior counsel in the office of Sri N.Raghavan, Advocate for petitioner/applicant and hence well acquainted with the facts of the case.

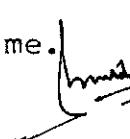
2. I submit that, the above O.A.S.R. is returned by the office of the Tribunal on 1-10-1996 with some objections and the same is represented on 9-12-1996, but again it is returned with the objection that condone delay petition is not filed.

I submit that, there~~was~~ is a delay of ~~78~~ <sup>81</sup> days from 16-10-1996 to 1-1-1997 in representing the above O.A.S.R. Since I am not in Station upto December, 1996, I could not represented on or before 15-10-1996, Thus there is a delay in representation of the above O.A.S.R. is ~~78~~ <sup>81</sup> days, the delay is neither wilful nor deliberate, except due to the reasons stated above.

It is therefore, prayed that the Hon'ble Tribunal may be pleased to enlarge the time for representing the above O.A.S.R. and pass such other order or orders as this Hon'ble Tribunal deems fit and proper.

Sworn and signed before me.  
HYDERABAD.  
DT: 2-1-1997.

Advocate/Hyd.

  
DEPONENT

3d

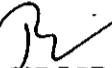
M.A. 43/97 in OA. SR. 3258/96.

10-01-97.

None for the applicant. Heard  
Mr. J. R. Gopal Rao for the respondents.

This MA is for condoning a delay  
of 81 days in re-presenting the OA. <sup>MA</sup> is  
allowed. Register the OA if otherwise  
in order.

List it for admission on 20-1-97.

  
HBSJP  
M(J)

  
HRRN  
M(A)

OR/ORIGINAL

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THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

RAILWAY

REGISTRATION

M.A. NO.

43

1997

IN

O.A. NO.

3258

1996

To condon the delay of 81 days in  
representation of OA

Mr. N. Raghavan  
COUNSEL FOR THE APPLICANTS

AND

Mr. \_\_\_\_\_

Sr. Addl. Standing Counsel for  
C.C. Rlys.

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