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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

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O.A.No.901/97.

Date of decision: 28th January, 1999.

Between:

V.Srinivasa Rao.

.. Applicant.

And

1. Senior DME (G&W) D.R.M's Office,
Mechanical Branch, South Central
Railway, Vijayawada.
2. Divisional Railway Manager (Personnel),
South Central Railway, Vijayawada.
3. General Manager (Personnel Branch)
South Central Railway, Secunderabad.

Respondents.

Counsel for the Applicant: Sri M.V.Suresh.

Counsel for the Respondents: Sri N.R.Davaraj.

CORUM.

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

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

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(5)

O.A.No.901/1997.

(by Hon'ble Sri B.S.Jai Parameshwar, Member(J))
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Heard Sri M.V.Suresh, the learned counsel for the Applicant and Sri N.R.Devaraj, the learned standing counsel for the Respondents.

2. During 1975, the Applicant joined as Fitter, C&W, BTTR. He was prosecuted for the offences punishable under Sec.3 of The Railway Property (Unlawful possession) Act in C.C.Nos., 113/87, 115/87 and 138/87 on the file of the Special Judicial Magistrate First Class, Railways, Nellore. The applicant was convicted by the Court of the Special Judicial Magistrate First Class, Railways, Nellore in all the three Criminal cases

3. As a sequel to his conviction in C.C.Nos., 113 and 138/87 the respondents initiated disciplinary proceedings U/s 14(1) of the CCS(CCA) Rules, 1965 and proposed to impose a penalty of removal of the applicant from service. They have issued a show cause Notice in Memorandum No. B/MS 315/II/BTTR dated 10.8.1992 (Page 2 of the reply of the Respondents).

4. The applicant submitted his representation dated 5/9-1092992. In the representation he submitted as under: (Annexure R-1 Page 45 of the reply)

"Out of the above three appeals, only C.A.No.60/90 relates to C.C.No.138/87 on the file of the Special J.M.F.C., for Railways, Nellore. Aggrieved by

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the said judgment, I had approached the Hon'ble High Court of Judicature (A.P) Hyderabad by filing a revision requesting the Hon'ble High Court to set aside the conviction and sentence of rupees 200/- (fine imposed in the above mentioned case.)"

5. The Senor DME/C&W/BZA -- the Disciplinary Authority after considering the representation of the applicant imposed the penalty of removal of the applicant from service vide Penalty Memo No.B/MS.315/II/BTTR dated 15.10-1992. He was removed from service with effect from 20.10.1992.

6. Against the said penalty order dated 15.10.1992, the applicant submitted an appeal dated 22.10.1992 to the ADRM, BZA., on 22.10.1992. ~~The~~

7. The Appellate Authority by its Pros., No.B/P/90/III/92/14 dated 18.12.1992 rejected the Appeal and confirmed the punishment.

8. Against the order of the Appellate Authority, the Applicant submitted a revision petition dated 31.1.1996 to the General Manager. The Revisional Authority by its Order No. P.90/82A/VSR/2172 dated 29.11.1996 rejected the revision petition and confirmed the judgment.

9. The applicant has filed this O.A., praying the following reliefs:

" to issue an order or direction declaring the orders of removal passed by the first respondent dated 15.10.1992 which were later confirmed by the Respondent Nos., 2 and 3

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on 18.12.1992 and 27.11.1996 respectively as illegal, arbitrary, null and void and for a consequential direction to the respondents to take back the applicant into service with immediate effect by paying all the pecuniary benefits from the year, 1992."

10. The applicant in his representation d/5/9-10-1992 (Annexure R1 Page 45 to the O.A.) had stated that he had challenged the conviction and sentences imposed by the trial court in C.A.Nos. 59, 60 and 61 of 1990 before the District & Sessions Judge, Nellore. Further he had stated that C.A.No.60/90 pertained to C.C.138/87 on the file of the Special Judicial Magistrate First Class, Railways, Nellore.

11. Now the applicant submits that Appeal against his conviction and sentence in C.C.138/87 were set aside in C.A.No.60/90. He submits that the representation made by him on 5/9-10-1992 is not based on the actual facts. He has furnished certain details in page No.3 of the O.A., According to the said particulars the Criminal Appeal No.60/90 pertains to C.C.115/87 and C.A.No.61/90 pertains to C.C.138/97. The applicant submits that instead of submitting his conviction and sentence in C.C.115/87 was challenged in C.A.60/87 he had wrongly stated that C.A.61/90 was filed against the conviction and sentence in C.C.138/87. ~~which ended in conviction by the trial court~~ It is on this wrong information furnished by the applicant in his representation the respondents have not considered his appeal properly. In regard to C.C.113 and 138/87

which ended in conviction and sentence by the trial Court, in the Appeals before the District & Sessions Judge, the convictions and sentence in C.C.113 and 138/87 were set aside. Since the applicant furnished ^rwong particulars in his representation, the respondents were not in a position to consider the show cause notice dated 10-8-1992 (Page 2 to the reply) in a proper perspective.

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12. The respondents were taken by the representation of the Applicant and they were under the impression that C.A.No.60/90 pertained to C.C.138/87 instead of C.C.115/87. Similar is the contention raised by the applicant in his appeal dated 22.10.1992 to the ADRM, South Central Railway, Vijayawada (Annexure R-II to the O.A. Page 5 to the reply)

13. As the applicant had not furnished the detailed particulars regarding the conviction and sentence imposed on him by the trial Court and the appeals in which the conviction and sentence in the two criminal cases were set aside by the Sessions Judge, Nellore, we feel it adequate in the interests of justice, that the applicant may be given an opportunity to submit a detailed appeal to the ADRM, Vijayawada explaining the facts and particulars. The applicant may also submit ^{copies of the} along with his Memorandum of Appeal the/judgments of the respective courts for perusal and verification

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by the Appellate Authority.

14. With a view to give an opportunity to the applicant to submit a proper and detailed appeal to the ADRM, Bezwada /we are inclined to set aside the Order No. B/P.90/III/92/14 dated 18.12.1992 passed by the Appellate Authority and the Order No.P.90/82A/VSR/2172 dated 29.11.1996 of the Revisional Authority,

15. The applicant may, if so advised, submit a detailed appeal against the Penalty Order dated 15.10.1992 to the ADRM, Bezwada.

16. Accordingly the following directions are given:

- (a) The Order dated 18.12.1992 passed by the ADRM, Bezwada and the Order dated 29.11.1996 passed by the General Manager are hereby set aside.
- (b) The applicant may, if so advised, submit a detailed Memorandum of Appeal with necessary documents to the ADRM, BZA.
- (c) When such an appeal is received, the ADRM, BZA shall consider and decide the appeal on merits within two months from the date of receipt of the Appeal
- (d) The ADRM, BZA shall give an opportunity to the Applicant to explain the facts fully.

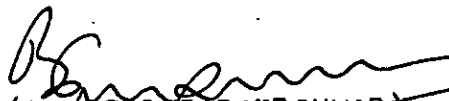
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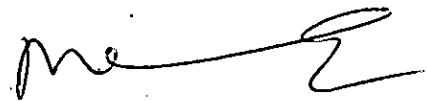
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(e) The applicant is at liberty to move the proper forum if the decision of the Appellate Authority is going to be adverse to him.

With the above directions, the O.A., is disposed of. There will be no order as to costs.


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


(R. RANGARAJAN)
Member (A)

22.1.99

Date: 28-1-1999.

Dictated in open Court.

Amalgam
22.1.99

COPY TO:-

1. HDHNJ
2. HHRP M(A)
3. HBSJP M(J)
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18/2/99
IST AND IIND COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE CHAIRMAN

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

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESWAR :
MEMBER (C)

DATED: 28/1/99

ORDER/JUDGMENT

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

In

O.A. NO.

901/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

- 8 FEB 1999

हैदराबाद न्यायपीठ
HYDERABAD BENCH