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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

D.A.No.1160/1997.

Date of decision: 18-12-1998.

Between:

S.Appareo.

.. .. Applicant

And

1. Union of India represented by its South Eastern Railway, Calcutta -43.
2. Divisional Railway Manager, S.E.Railway, Visakhapatnam.
3. Senior Divisional Mechanical Engineer (Diesel), S.R.Railway, Visakhapatnam.
4. Divisional Mechanical Engineer (Diesel), S.E.Railway, Visakhapatnam. .. Respondents.

Counsel for the applicant: Sri P.B.Vijaya Kumar.

Counsel for the respondents: Sri V.Bhimanna.

CORAM:

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

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

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D.A.No.1160/97.

JUDGMENT:
(by Hob'ble Sri B.S.Jai Parameshwar, Member (A))

None on either side. Even the respondents have not filed their reply. We are deciding this D.A., on the basis of the material available on record.

2. The applicant herein was issued with a charge-sheet dated 7.8.1995. An enquiry was conducted into the said charge. The Enquiry Officer submitted his report. The conclusion of the Enquiry Report is as under: (Page 3 to the D.A.)

"It is concluded that Sri S.Apparao, Fitter T.No.1836 of DLS-Wat is found guilty of Charge of entering loco unauthorisedly and attempted for theft of P22 P/Con shunt.

He is not found guilty of charge of unauthorised possession of railway material"

3. The Disciplinary Authority considered the report of the Enquiry Officer and by its Proceedings No.WDE/20/MJR/SAR/304 dated 12/30.4.1996 imposed the punishment of compulsory retirement of the applicant from service.

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4. Against the said punishment Order the applicant submitted his appeal dated 8.5.1996 to the Respondent No.3. The Respondent No.3 by Pros., No. WDE/20/MJR/SAR/1007 dated 21/24.6.1996 enhanced the punishment to that of removal from service from compulsory retirement without issuing any show cause notice before passing the said order. Against the order of the Respondent No.3 a revision petition dated 1.7.1996 was submitted to the respondent No.2. The Respondent No.2 by his Pros., dated 3.9.1996 revised the punishment to that of ~~maximum~~ compulsory retirement imposed earlier by the Disciplinary Authority.

5. It is submitted that against the order of the 2nd respondent a mercy petition dated 29.6.1997 has been submitted to the Respondent No.2 1. It is not known whether the mercy petition dated 29.6.1997 has been considered by the respondent No.1 or not.

6. This O.A., is filed to declare all the Proceedings leading upto and including the Proceedings of the Respondent No.2 dated 3/9.9.1996 as arbitrary, illegal and to quash the same, directing the respondents to reinstate him & into service with all consequential benefits.

7. The respondent No.3 had enhanced the punishment from compulsory retirement to that of removal from service. It is stated that enhancement of punishment was given without giving him any notice. As no reply is filed, this fact could not be examined. If the Respondent No.3 ⁸ has enhanced the punishment then he becomes the Disciplinary Authority in which case the disposal of the case by the Respondent No.2 is to be treated as disposal of an appeal against the orders of the Respondent No.3. Hence the applicant has a chance to file his review petition in this connection. In that view, his revision petition dated 29.6.1997 should be treated as review petition addressed to the General Manager, South Eastern Railway, the Respondent No.1 herein.

8. The applicant has also made a number of contentions in this O.A. As no reply has been filed and even the learned counsel for the respondents is not present, we are not able to comment on the contentions raised in the O.A.

9. In view of the above position, the following directions are given to the respondents, that --

- i) the Respondent No.1 shall dispose of the representation of the applicant dated 29-6-1997 addressed to him taking due note of the contentions raised in this O.A., as well as the contentions raised in his representation

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dated 29-6-1997;

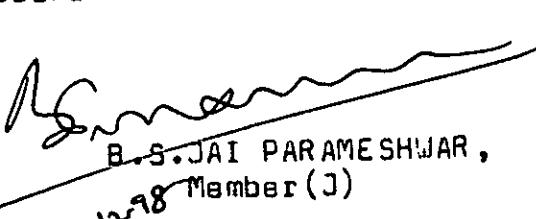
ii) if ^{per} by chance, the representation dated 29.6.1997

of the applicant had already been disposed of adverse to the applicant, the same should be treated as having been set aside and a fresh order shall be passed by the Respondent No.1;

iii) if the applicant desires a personal hearing in this connection, Respondent No.1 shall give him ^{an} opportunity of personal hearing before disposing of the representation dated 29.6.1997

iv) time for compliance is three months from the date of receipt of a copy of this Order.

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


B.S.JAI PARAMESHWAR,
Member (J)


R.RANGARAJAN,
Member (A)

18.12.98

Date: 18-12-1998.

Dictated in open Court.

sss.

✓ 6/1/99

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

copy to : -

D.D.R. (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI B. S. JAI PARAMESWAR :
M(J)

DATED: 18/12/98

ORDER/JUDGMENT

MA/R.A. /C.P. No.

in

OA. No. 1160/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

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